



competition commission
south africa

Media Statement

For Immediate Release

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SHOPRITE CHECKERS TO HALT ENFORCING EXCLUSIVE LEASES

The Commission has referred to the Competition Tribunal an agreement with Shoprite Checkers to be confirmed as an order in which the retailer agreed to no longer enforce the exclusivity clauses contained in various lease agreements against SMEs and specialist line stores with immediate effect.

Furthermore, Shoprite Checkers has undertaken to immediately cease exclusivity against other supermarkets in non-urban areas and this will be phased out over five years in urban areas.

The agreement follows the Grocery Retail Market Inquiry (GRMI) report released in November last year which found that exclusive lease clauses contained in various leasing contracts impeded competition in the South African grocery retail sector. It also found that there were no compelling justifications for the continued existence of these exclusive lease agreements.

The agreement, which ushers in a new era in the South African grocery retailing environment, is in full compliance with the findings and recommendations of the report. The use of long-term exclusive lease agreements by the national supermarket chains was widely prevalent, covering well over 70% of the shopping centres in South Africa.

The report also found that these exclusive lease agreements endured for long periods, ranging between 10 to 40 years. Small and independent grocery retailers, specialty stores and emerging challenger retailers such as OBC, Liquor City and Food Lovers Market were unable to enter many shopping centres as a result of these exclusive leases.

The report found that these exclusive lease agreements contributed to high levels of concentration in the formal grocery retail sector and enabled the large national supermarket chains to maintain their position with limited competition challenge from other grocery retailers.

This situation robbed the South African consumers of choice, dynamism and innovation in the sector.

In line with the recommendations of the GRMI, Shoprite Checkers has, on behalf of its brands Shoprite, Checkers, and Usave, undertaken to do the following:

- it will waive exclusivity against small and independent grocery retailers and speciality stores in all shopping centres with immediate effect;
- it will waive exclusivity against other supermarket chains in all non-urban shopping centres with immediate effect and phase out exclusivity over five years in urban areas. The phase out will involve waiving exclusivity as leases come up for renewal; and
- it will not sign any new lease agreements that contain exclusivity clauses.

Importantly, this undertaking also applies to Shoprite Checkers' franchise business, OK Foods. Specifically, where Shoprite Checkers holds the lease on behalf of a franchisee, the undertaking will be implemented immediately. Where franchisees hold the lease, Shoprite Checkers and the Commission have agreed that within a period of 12 months, Shoprite Checkers will work with its franchisees to ensure compliance with the undertaking. Shoprite Checkers will also ensure that its franchise agreements will, in future, not allow franchisees to hold exclusive leases.

“The Commission welcomes this development which will see the introduction of much needed competition in the South African grocery retail sector, and bring to an end an area of concern that the Commission has raised for almost ten years. This move by Shoprite Checkers is timely considering the devastating impact of the corona virus pandemic on the South African economy in general, and specifically the retailing and retail property sectors. Even more encouraging is the leveling of the playing field between independently-owned small grocery retailers and the small franchise operators that benefit from the bargaining power that comes with their association with the well-established brands of the national supermarket chains.”, said Competition Commissioner, Tembinkosi Bonakele.

[ENDS]

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