



**competition commission**  
*south africa*

**Media Statement**

**For Immediate Release**

**16 October 2023**

**COMPETITION APPEAL COURT CONFIRMS A PENALTY OF R3.5 MILLION AGAINST  
TSUTSUMANI FOR EXCESSIVE PRICING OF FACE MASKS TO SAPS**

The Competition Commission (Commission) welcomes the decision of the Competition Appeal Court (CAC) handed down on Friday, 13 October 2023, confirming a decision of the Competition Tribunal ("Tribunal"), made in April 2020, which found Tsutsumani Business Enterprises CC ("Tsutsumani") had engaged in an excessive pricing of face masks to the South African Police Service ("SAPS") in contravention of section 8(1)(a) of the Act and imposed a penalty of R3.5 million. The CAC's ruling follows an unsuccessful review application brought by Tsutsumani against the Tribunal's decision.

The matter stemmed from an investigation by the Commission following a complaint filed by the SAPS against Tsutsumani for alleged excessive pricing of masks supplied to SAPS. The Commission found that Tsutsumani had charged the SAPS excessive prices for the urgent supply of 500 000 3-ply surgical face masks between 5 and 29 April 2020 at a mark-up of 87% per mask and that the SAPS was a price-taker because of the shortage of supply of face masks at the time. Tsutsumani responded to an RFQ issued by the SAPS for the urgent procurement of personal protective equipment ("PPEs") from various suppliers.

The urgent procurement of PPEs was necessitated by the advent of the COVID-19 pandemic and the National State of Disaster which required all SAPS staff to wear masks. SAPS required nine million masks per month for use by its staff on the frontline of combating the coronavirus during the lockdown. Tsutsumani had denied the excessive pricing allegations. This was the first excessive pricing case referred to the Tribunal by the Commission in the context of a public procurement process during the COVID-19 pandemic.

"The CAC judgment underscores the fact that excessive pricing of essential goods and services, within the context of public procurement, during a pandemic or national disaster, will not be tolerated by competition authorities," said Competition Commissioner, Doris Tshepe.

**[ENDS]**

**Issued by:**

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