



MEDIA STATEMENT:

INVESTIGATION INTO ALLEGED PRICE FIXING BY PHARMACIES

i. Introduction

The Namibian Competition Commission (“the Commission”) confirms that it has commenced an investigation for price fixing against the Pharmaceutical Society of Namibia (“PSN”) and over 200 registered pharmacies. The Commission’s investigation is based on allegations that the PSN, a voluntary association of pharmacies has in place a rule that requires pharmacies to impose a uniform 50% mark-up on the dispensing of medicines. Mark-ups refer to the margins or profits that pharmacies add on top of the costs of medicines. Information provided to the Commission has suggested that the PSN strictly enforces the 50% mark-up requirement and warns pharmacies of possible sanctions for purportedly transgressing ethical rules and making themselves guilty of touting if such pharmacies deviate from the 50% mark-up requirement. Pharmacies which have previously deviated from the 50% mark-up requirement have been subjected to investigations and disciplinary proceedings by the PSN.

ii. Potential harmful nature of the conduct

Price fixing is prohibited in terms of the Competition Act. The setting of a uniform price between pharmacies which are supposed to be trading in competition with each other is a concern for consumer welfare since it removes price competition and diminishes the product choices by consumers. When prices are fixed by competitor pharmacies, consumers have no choice but to pay the fixed price and reduces pressure on pharmacies to reduce the costs of medicines. The aforementioned can result in unjustified and increased consumer cost for medicines and ultimately reduces access to affordable health care.

iii. Basis of investigation

The investigation is therefore aimed at determining whether the alleged conduct of the PSN and registered pharmacies could potentially amount to a decision by an association of undertakings (being the PSN) and or an agreement or concerted practice between undertakings (the pharmacies) which amounts to the fixing of purchase or selling prices or other trading conditions pertaining to the dispensing of medicine as envisaged in terms of section 23(1) read with section 23(2)(a) and or 23(2)(b) and section 23(3)(a) of the Competition Act.

iv. Concluding remarks & way forward

The Commission stresses that it is still gathering all the relevant evidence and has recently served a notice of its investigation to the PSN and registered pharmacies. These parties have been afforded an opportunity to make representations within 30 working days to the Commission regarding the subject-matter of the investigation. The Commission will at the conclusion of its investigation depending on the evidence uncovered, make a determination regarding whether or not the conduct of the PSN and registered pharmacies amounts to prohibited price fixing as envisaged in terms of the Competition Act.

Issued by:

Namibian Competition Commission

Enforcement, Exemptions & Cartels Division

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