



MASSMART

GROUP UPDATE

Massmart welcomes Competition Commission's findings on South African food retail business

In June 2009 the South African Competition Commission began an inquiry into alleged anti-competitive behaviour in the retail food industry. On 27 January 2011 the local supermarket industry was cleared of the bulk of these allegations. The inquiry focused on the retail practices applied to key staple foods, specifically poultry, bread and maize meal, milk, fats and oils and canned fish. The commission's investigation revealed insufficient evidence to show contraventions of the Competition Act in respect of three of the four key investigation areas, namely buyer power, category management and information exchange.

Buyer power, category management and information exchange

Responding to concerns that supermarket chains may be abusing their buyer power by placing unreasonably burdensome demands on suppliers, including exclusive supply arrangements, promotional discounts and payment and return policies that favour larger suppliers, the commission found no evidence supporting buyer power abuse. Compliance with a range of retailer criteria, such as allowances and rebates, adverse payment terms and retrospective payment deductions, however, remains contentious for smaller suppliers. The commission noted, "In the long run, this may undermine the competitive process at this level of the supply chain."

The commission's investigation found that category management is limited in respect of the products covered by the inquiry, and where it does occur, it is largely managed by in-house personnel rather than suppliers. The commission noted that this significantly limits potential for collusion or competitive exclusion, and with no evidence of category management contravening the Competition Act 89 of 1998, they will not be pursuing this matter.

While the investigation revealed that suppliers receive detailed information about their performance and that of their competitors, no evidence of information exchange between the supermarket chains was found. The commission also found no evidence of collusion on pricing of the food items identified for investigation.



Exclusive leases remain an issue

The fourth area of investigation, exclusive lease agreements, pertaining primarily to the 'Big 4' food retailers' lengthy anchor tenant leases at favourable rental rates that effectively exclude potential competitors, remains under investigation. This is an industry-wide practice and the commission has determined to continue engaging with all relevant stakeholders with the intention of finding a mutually achieved,

constructive solution to this longstanding issue. Despite recent shifts to multi-tenant leases, the commission cautions that, "If a solution cannot be found, the commission will proceed with prosecuting this matter" as it presents significant challenges to the intent of the Competition Act.

An opportunity for objective insight into the industry

From the start of the inquiry, Massmart has welcomed the process and viewed it as an opportunity to encourage a thorough understanding of how the local industry works. Massmart responded to the commission's findings, stating, "Massmart believes that the competition authorities were ideally placed to undertake this investigation; they approached the matter with an open mind, and at all times gave us the opportunity to present our views."

Recommendations across all four areas of investigation are still pending and the commission has yet to provide a date for their release. Massmart says it will continue to give the commission its full support and look forward to any practical suggestions they have to increase the sustainable competitiveness of the industry in the interests of consumers. ■