

COVID-19 - Competition measures to protect consumers in Africa

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As the COVID-19 pandemic has gripped countries globally, and there has been widespread reports of opportunists taking advantage of the panic buying to hike prices dramatically. A number of regulatory authorities have taken swift action to protect consumers. Africa has been no exception, with some examples set out below.

South Africa

In South Africa, the Department of Trade Industry and Competition ("**DTIC**") has issued regulations which aim to curb the spread of panic buying and price hikes. These regulations are intended to ensure that supermarkets prevent panic buying and do not hike the price of certain essential products excessively. Breach of these regulations carries hefty penalties. The South African Competition Commission ("**SACC**") has received approximately 500 complaints relating to price hikes, and is investigating a number of retailers for breach of these regulations. Certain retailers have justified price hikes by submitting that the price hikes relate to an increase in prices from the end of last year. A retailer in the Mpumalanga province has agreed to refund customers for price hikes on masks and the Spar Group has been liaising with the SACC regarding promotions on essential goods, informing them of the promotional prices and alerting them to the fact that the prices will rise once the promotion has come to an end.

Kenya

The Competition Authority of Kenya ("**CAK**") has issued a cautionary notice stating that it has come to their attention that some manufacturers and retailers are intending to collusively increase prices or hoard consumer products in order to increase prices at a later stage. The CAK has made it clear that the conduct contravenes the Kenyan Competition Act contraventions will carry a penalty of up to 10% of the annual turnover of the firms in question. The CAK has lived up to its warning, issuing a remedial order against Cleanshelf Supermarkets to refund all consumers after an investigation found that they had sold hand sanitisers to consumers at an increased price.

Namibia

The Namibian Competition Commission ("**NaCC**") has received complaints of retailers of healthcare and hygiene products hiking prices of essential products. In response to these complaints, the NCC issued a statement warning that the Namibian competition legislation prohibits conduct which amounts to excessive pricing and price fixing, and offending retailers and suppliers may be fined 10% of their turnover. The NaCC observed that after analysis of the prices of essential healthcare and hygiene products, some retailers had artificially hiked prices in the wake of the COVID-19 outbreak. The NaCC has set up a dedicated team under its Enforcement, Exemptions & Cartels Division to ensure prioritisation of complaints relating to essential healthcare and hygiene products. The NaCC is currently in discussion with the Namibian government to provide consumers with protection against price exploitation.

Nigeria

The Federal Competition and Consumer Protection Commission ("**FCCPC**") has also issued a warning, stating that it has come to their attention that suppliers and retailers are engaging in unconscionable trade practices on basic safety and protective apparel and hygiene products. The FCCPC also found that some "otherwise reputable" pharmacies and department stores engaged in price gouging and manipulating supplies so as to temporarily restrict the availability of such supplies to unfairly increase prices. The FCCPC warned that such conduct is prohibited in terms of the Nigerian competition and consumer legislation, and it intends to "strongly enforce the full letter of the law". Media reports suggest that the FCCPC is prosecuting several pharmacies and supermarkets in relation to price hikes of hand sanitisers.

Tanzania

The Fair Competition Commission ("**FCC**") issued a statement on its website noting that it had received complaints regarding shortages and a sharp rise in prices of hygiene products such as hand sanitisers and protective wear such as facemasks. The FCC conducted a preliminary investigation and found that:

- prices of these products had increased since the announcement of the COVID-19 outbreak in Tanzania;
- sellers and suppliers of these products had been hoarding these products so as to later increase the prices of these products; and
- there was possible misrepresentation in relation to certain product types.

The FCC warned manufacturers, importers, wholesalers and retailers of relevant products that engaging in such conduct is an offence in terms of the Tanzanian Competition Act.

Botswana

The Competition and Consumer Authority ("**CCA**") in Botswana has issued a statement on its website cautioning consumers against "deceptive practices", noting that it has received complaints from the public of increases in prices for essential products including basic food products, healthcare and hygiene products and the sale of "dubious" products. The CCA went on to warn that such conduct is in contravention of consumer protection legislation and businesses or persons found to have engaged in such conduct in the supply of products intended to fight the Corona Virus will face appropriate action.

COMESA

On a different note, the Common Market for Eastern and Southern Africa ("**COMESA**") Competition Commission ("**CCC**") issued a notice warning that selling products purporting to cure the COVID-19 virus is a contravention of the COMESA Competition Regulations, and failure to heed the warning may result in sanctions of up to USD 300 000. Member states of COMESA are: Burundi, the Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe

Uganda and Rwanda

Both countries have taken measures to protect consumers in relation to price hikes. Uganda's Kampala Capital City Authority issued a press statement outlining various measures to combat the spread of COVID-19, and warned retail and wholesale businesses that any trader found to have unreasonably and unlawfully hiked prices of any goods would have their trading license permanently revoked pursuant to the provisions of the Trading Licensing Act. The Rwandan Ministry of Trade and Industry announced that it had fined 145 companies and individuals for price increases of food products, intentional use of unapproved weighing scales and issuance of illegal invoices in breach of laws relating to competition and consumer protection.

Compliance

It is imperative for firms to remain compliant with the competition and consumer laws of the countries in which they operate, and to closely monitor operations to ensure that pricing policies on essential products remain in line with local legislation. This is especially important given that competition authorities will remain on high alert for any conduct which may be considered a contravention of competition laws in their respective jurisdictions.

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