

NOTICE 568 OF 2004**NOTICE OF AN APPLICATION FOR AN EXEMPTION IN TERMS OF SECTION 10 OF THE COMPETITION ACT, 1998:
SCRIPTPHARM HOLDINGS (PTY) LTD AND OTHERS**

An application for an exemption has been filed with the Competition Commission ("the Commission") by Scriptpharm Holdings (Pty) Ltd, Scriptnet Limited, Scriptpharm Risk Management (Pty) Ltd and retail pharmacies that have concluded a category of agreements with Scriptpharm Holdings (Pty) Ltd, or Scriptpharm Risk Management (Pty) Ltd (collectively referred to as "the Applicants"). The exemption application is in respect of agreements for the delivery of a pharmaceutical service to members and beneficiaries of medical aid schemes for the supply of chronic and acute medication.

The Applicants apply for an exemption for a category of agreements, as is provided for in section 10 (1) (b) of the Competition Act, 1998, as amended ("the Act"), from the provisions of section 4 (1) (b) (i) of Chapter 2 of the Act. The application relates to agreements in terms of which the involved pharmacists agree to and are permitted to support and/or implement the prices, terms and conditions of agreements negotiated and entered into on their behalf with medical aid schemes and medical scheme administrators. These relate to the prices, terms and conditions on which the pharmaceutical services are rendered and inputs are purchased.

Section 4 (1) (b) (i) of the Act prohibits an agreement between, or concerted practice by firms or a decision by firms in a horizontal relationship if it involves directly or indirectly fixing a selling or purchase price or any other trading condition. A horizontal relationship refers to a relationship between competitors.

The Applicants submit that the category of agreements for which an exemption is sought is required to obtain the objective contained in section 10 (3) (b) (ii) of the Act, since it contributes to the promotion of the ability of small businesses and firms controlled or owned by historically disadvantaged persons to become competitive.

The period for which an exemption has been applied for is 6 years, incorporating agreements signed for the year 2003, as well as agreements to be entered into for the years 2004 to 2008.

In accordance with the provisions of section 10 (6) of the Act, notice is hereby given of the above application for exemption. Interested parties can make written submissions to the Commission as to why the exemption should not be granted. Such submissions must reach the Commission within 20 (twenty) working days from the date of this Notice and should be directed to:

The Manager
Enforcement and Exemptions Division
Competition Commission
Private Bag X23
Lynnwood Ridge, 0040
Facsimile: (012) 482-9118
E-mail: ccsa@compcom.co.za

In correspondence kindly refer to case number 2004Mar895.

(8 April 2004)