

NOTICE 476 OF 2005**NOTICE OF AN APPLICATION BY THE COMMUNITY PHARMACIST SECTOR OF THE PHARMACEUTICAL SOCIETY OF SOUTH AFRICA FOR AN EXEMPTION IN TERMS OF SECTION 10(1)(a) OF THE COMPETITION ACT, NO 89 OF 1998 AS AMENDED FROM THE PROVISIONS OF PART A OF CHAPTER 2 OF THE ACT**

Notice is hereby given in terms of section 10(6)(a) of the Competition Act, No 89 of 1998 as amended ("the Act"), that the Community Pharmacist Sector of the Pharmaceutical Society of South Africa, has applied to the Competition Commission in terms of section 10(1)(a) of the Act to exempt from the application of Chapter 2 an "agreement or practice, if that agreement or practice meets the requirements of section 10(3) of the Act".

The applicant's members are allegedly involved in some 44% of all community retail pharmacies in South Africa.

The applicant intends to recommend a tariff to its members that may be charged in respect of the dispensing of prescription medicines sold to the public as well incidentals relating to this service (such as in respect of non-payment of accounts by schemes or the periods of credit granted).

According to the applicant the recommended tariff will probably be based on the Dispensing Fee guideline offered by Managed Healthcare Systems (Pty) Ltd. The guideline sets out the structure, together with actual amounts, of a tariff of fees and charges and related conditions on which pharmaceutical services are rendered.

The applicant contends that the intended conduct, that of recommending a tariff, contravenes section 4(1)(b)(i) of the Act:

In terms of section 4(1) an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if-

"(b) it involves any of the following restrictive horizontal practices:

- (i) directly or indirectly fixing a purchase or selling price or any other trading condition."

The applicant has applied for an exemption on the grounds that the restriction is required to attain the objective set out in section 10(3)(b)(ii) of the Act, namely that it contributes to the objective of promoting the ability of small businesses, or firms owned or controlled by historically disadvantaged firms to become competitive.

Interested parties may, within 20 business days from the date of this notice, make written representations to the Commission concerning the application.

Such representations may be directed to the Acting Manager; Enforcement and Exemptions, Private Bag X23, Lynnwood Ridge 0040 or by facsimile to number 012 394 4332. (Case number: 2005Feb1442)

This notice is published by: Mr K Weeks, Block C Mapungubwe Building, 77 Meintjies street, Sunnyside, Pretoria, and contact numbers 012- 394 3258 or 012- 394 3200.