

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 3117

3 March 2023

NOTICE IN TERMS OF SECTION 10(6) OF THE COMPETITION ACT NO. 89 OF
1998 (AS AMENDED)

THE COMPETITION COMMISSION OF SOUTH AFRICA

NOTICE OF APPLICATION FOR AN EXEMPTION

1. 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 South African Orthopaedic Association ("**SAOA**") has applied to the Competition Commission ("**the Commission**") in terms of section 10(1) of the Act, for exemption from certain provisions of Chapter 2 of the Act in order to engage in conduct that would be in contravention of the Act. The aforementioned exemption will be for a period of three (3) years.
2. The SAOA is a not-for-profit professional association that represents orthopaedic surgeons in South Africa and those who have had orthopaedic training in South Africa or show a continuing interest in the affairs of the association. The SAOA's objective is the advancement for public benefit of the science, art and practice of orthopaedic surgery with the aim of bringing relief to patients of all ages suffering from the effects of injury or disorders of the musculoskeletal system.
3. The application for the exemption is in respect of the SAOA being granted permission to engage with the major medical scheme funders and others interested to discuss acceptable coding bundles, total units per procedure and acceptable total quantum.
4. According to the SAOA, the reimbursement environment requires that surgeons list codes indicating the procedure(s) performed and the absolute quantum charge. Each code has a number of units associated with it and units differ between procedure codes. Each surgeon would then ascribe a Rand unit Value ("**RUV**") in order to create the final account (total procedure units x RUV = Total Invoiced).
5. Each medical scheme/funder/plan has different Rand unit values and codes that

they accept as a bundle. As a result, the SAOA submit that this has led to confusion in the marketplace given that surgeons charge different code bundles with different total units and different Rand unit values for the same surgical procedures. Similarly, medical schemes accept or reject different coding bundles and pay at different Rand unit values. This according to the SAOA places patients in jeopardy as final accounts and shortfalls are difficult to predict.

6. Given the above, the SAOA would like to engage with the major medical schemes and others interested in order to discuss acceptable coding bundles, total units per procedure and acceptable total quantum.
7. The SAOA submit that the exemption will lead to the achievement of the following objectives:
 - 7.1. Changing the productive capacity necessary to stop decline in an industry;
 - 7.2. Achieving competitiveness and efficiency gains that promote employment or industrial expansion; and
 - 7.3. Maintaining economic stability in an industry designated by the Minister.
8. However, the Commission notes that the industry the exemption application is sought for has not been designated by the Minister. As a result of this, the Commission will assess the exemption application on the first two objectives listed above.
9. Notice is hereby given in terms of section 10(6)(b) of the Act to allow interested parties twenty (20) business days from the date of publication of this notice to make written representations to the Commission as to why the exemption should, or not, be granted.
10. Such representations must be directed to:

Thabang Ndlovu

Competition Commission

Market Conduct Division

Email: ThabangN@compcom.co.za

Tlabo Mabye

Competition Commission

Market Conduct

Email: TlaboM@compcom.co.za

11. Kindly make use of the following case number when sending correspondence in relation to this notice: Case No: **2022DEC0024**.