

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 2941 OF 2025****COMPETITION COMMISSION SOUTH AFRICA****NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT 89 OF 1998, (AS AMENDED)****OUTCOME OF AN EXEMPTION APPLICATION FILED BY THE INDEPENDENT PRACTITIONER ASSOCIATION FOUNDATION: 2022APR0022**

1. On 07 April 2022, the Independent Practitioner Association Foundation and its members ("**IPAF**"), filed an application for an exemption in terms of Section 10(1) of the Competition Act 89 of 1998, as amended ("**the Competitio Act**"), which allows a firm to apply to the Competition Commission ("**the Commission**") to exempt an agreement, a practice, and a category of agreements from the provisions of Chapter 2 of the Competition Act.
2. IPAF is a non-profit company registered with the Companies and Intellectual Property Commission under registration number 2009/001513/08. IPAF was established in 2009 with the main purpose being that of an overarching network management company for medical professionals who are members of regional Independent Practitioner Organisations ("**IPAs**"), and a provider of peer review used in managed care. The services IPAF provides are on behalf of general practitioners who are registered with the Health Professions Council of South Africa ("**HPCSA**") and whose scope of practice is defined as such by the Health Professions Act. Medical professionals who are not members of regional IPAs are also free to join IPAF directly.
3. The exemption application covered the following practices by IPAF and its members:
 - 3.1. Collective bargaining between IPAF (on behalf of its members) and individual medical schemes and administrators, as well as arrangements that result from such collective bargaining to set prices in respect of insured services rendered by GPs to medical scheme members;
 - 3.2. Global fee negotiations with medical schemes; medical scheme administrators; the state and/or other healthcare providers; and

- 3.3. To undertake collective or centralized procurement on behalf of IPAF members.
4. IPAF relied on the objectives set out in Sections 10(3)(b)(ii) and 10(3)(b)(iv) of the Competition Act, which allow an exemption of agreements and/or practices that promote the ability of small businesses or firms controlled or owned by historically disadvantaged individuals (“**HDIs**”) to become competitive; and to ensure competitive and efficiency gains that promote employment or industrial expansion – respectively.
5. The exemption was requested for a period of five (5) years.
6. On 1 July 2022, the Commission published a *Government Gazette* Notice pertaining to the exemption application filed by IPAF in accordance with Section 10(6) of the Competition Act, read with Rule 19(4) of the Rules of Conduct of Proceedings in the Competition Commission (“**the Rules**”). The Notice stated that the conduct sought may amount to prohibited practices in contravention of Section 4 of the Competition Act. The Notice also called upon interested parties to make written representations to the Commission within twenty (20) business days of publication as to why the exemption should or should not be granted.
7. The submissions received from interested parties were considered in the assessment of IPAF’s exemption application.
8. The Commission’s investigation has been completed and it resulted in the following findings:
- 8.1. The conduct of IPAF members as envisaged in the exemption application - would result in a contravention of Section 4 of the Competition Act, as the application relates to information exchange agreements and/or practices between parties in a horizontal relationship;
- 8.2. In relation to **collective bargaining** and **global fee negotiations** - the granting of an exemption to IPAF will likely result in a limitation on competition and an increase in prices above competitive levels which will be detrimental to consumers. Several stakeholders have also objected to the granting of the exemption to IPAF due to concerns around the impact of such an exemption on competition in the market and potential consumer harm;

8.3. In relation to **centralised procurement** - the granting of this aspect of the exemption to IPAF, will enable its members to compete more effectively and create employment opportunities for other personnel required in the running of the individual practices. The Commission's view is that this aspect of the exemption will also benefit IPAF's members in that, it will allow for an increased procurement of goods from local suppliers - thereby creating opportunities for more suppliers within the value chain. Several stakeholders expressed support for this practice to be exempted by the Commission because of its potential benefit to GPs and the consumers.

9. Notice is therefore given in terms of Section 10(7) of the Competition Act that the Commission has decided to (i) **reject** an exemption application filed by IPAF in respect of **collective bargaining** and **global fee negotiations**; and (ii) **approve** an exemption application filed by IPAF in respect of **centralised procurement**.

The conditional exemption relating to centralised procurement is for a period of 5 (five) years, commencing from 9 December 2024 ending on 9 December 2029. The exemption for centralised procurement will be subject to monitoring mechanisms to ensure that the objectives set out in the application are met. The Conditions and Monitoring Mechanisms are attached hereto as

10.

11. **ANNEXURE 1.**

12. IPAF and any other person with a substantial material interest affected by this decision may lodge an appeal to the Competition Tribunal in the prescribed manner in terms of Section 10(8) of the Competition Act.

13. Further queries concerning this Notice should be directed to:

Mr Tlabo Mabye / Ms Priya Reddy

Competition Commission South Africa

Market Conduct Division

Private Bag X23

Lynnwood Ridge

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Email: TlaboM@compcom.co.za / PriyaR@compcom.co.za

14. Kindly make use of the following case number when sending correspondence in relation to this Notice: **2022Apr0022**

ANNEXURE 1: EXEMPTION CONDITIONS AND MONITORING MECHANISMS

The Exemption in relation to **Centralised Procurement** only is granted for a period of five (5) years effective from 9 December 2024 up to and including 9 December 2029, subject to the following conditions:

Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

“**IPAF**” means the Independent Practitioner Association Foundation

“**Approval date**” means the date referred to in the Competition Commission’s Exemption Certificate

“**Commission**” means the Competition Commission of South Africa a statutory body established in terms of section 19 of the Competition Act 89 of 1998 (as amended) with its principal place of business at Block C, Mulayo Building, the dti Campus, 77 Meintjies Street, Sunnyside, Pretoria

“**Competition Act**” means the Competition Act 89 of 1998, as amended

“**Effective Date**” means the date on which these conditions shall become effective, being 9 December 2024.

“**Exemption**” means to pardon conduct otherwise prohibited if it is required to achieve identified socio-economic aims.

Preamble

1. The conditions below only apply for the purpose and duration of the Exemption. The Exemption is in respect agreements relating to **centralised procurement** only. The exemption permits IPAF to engage in centralised procurement, on behalf of its members.

Tracking of Information

2. IPAF must implement measures to track:
 - 2.1. The members whose competitiveness has improved as a result of centralised procurement;
 - 2.2. Cost savings that have been derived from centralised procurement for its members;
 - 2.3. How centralised procurement has created opportunities and incentives for products required in GP practices, to be manufactured and purchased locally; and
 - 2.4. The extent to which those cost savings have been passed down to consumers as a result of the implementation of centralised procurement.

Annual Submission of Information

3. IPAF is required to submit a Report to the Commission by the end of 31 December annually, commencing at the end of 31 December 2025. This will enable the Commission to monitor the impact of the measures taken to meet the objectives relied upon and to assess whether IPAF is meeting those objectives on an on-going basis.
4. The information to be submitted to the Commission must include the following:
 - 4.1. A list of members whose competitiveness improved since the commencement of centralised procurement and a breakdown of how that improvement occurred;

- 4.2. A breakdown of cost savings for each member, submitted in a fully collated format on an Excel Spreadsheet and indicating the improvement in costs in relation to the purchasing of products and/or equipment utilised in GP practices;
- 4.3. A detailed description of how centralised procurement has created opportunities and incentives for products required in GP practices, to be manufactured and purchased locally. Including the products which were not manufactured and/or sourced locally, absent the exemption.
- 4.4. A detailed description of how all costs savings derived from centralised procurement undertaken by IPAF have been passed down to consumers.

Variation Clause

5. Notwithstanding the aforementioned conditions, the Commission may at any time upon good cause shown decide to vary or revise any condition during the period of the exemption.