



## COMPETITION AUTHORITY INTERVENES TO LEVEL THE PLAYING FIELD

Over the past few months, the Competition Authority (CA) has intervened in a number of cases of anti-competitive conduct. Through the CA's interventions, the market place in the supply of physiotherapy equipment and electrical hardware has been made more accessible for players that were hitherto denied entry.

In the first instance, the CA received a complaint about an alleged anti-competitive conduct by a certain local enterprise in the business of physiotherapy and massage that utilises the Ceragem equipment/technology.

According to the complainant, the sole distributor of Ceragem equipment in Botswana had refused to supply the complainant with the equipment. The distributor was appointed by the principal supplier in South Africa.

The complainant had also desired to



start a Cerahouse business for physiotherapy and massage using the modern technology of Ceragem. Unfortunately, the business intention was frustrated by the appointed distributor who refused to supply the complainant with Ceragem technology and equipment (refusal to deal). When the complainant's efforts were spurned, they approached the Authority for assistance.

The intervention by the CA led to the relaxation of supply rules whereupon the principal supplier in South Africa decided to directly supply the complainant with the Ceragem equipment and not through the agent in Botswana. The supply line is expected to be extended to other potential entrepreneurs as well.

After the Authority's intervention, the complainant provided feedback that their enterprise was able to buy the equipment at a competitive price and this allowed them to compete on equal footing (fair competition) with other service providers. Subject to the remedial action on the anti-competitive practice of 'refusal to

deal' the complainant appreciated the correction of the market structure.

In light of the free entry into the physiotherapy and massaging market by a potential entrepreneur (and other future entrants), the CA decided to stop the inquiry and monitor the market going forward to ensure that structural barriers to

entry are lifted to allow for free and fair competition.

On another separate matter of 'refusal to deal' or 'refusal to supply', a citizen owned electrical hardware company reported that a South African supplier refused to supply it with electrical hardware. The South African supplier had instructed the complainant to procure equipment through a local agent, apparently at higher prices.

After receiving the complaint, the Authority approached the supplier in South Africa to understand the basis of that supply decision. It was during that period of inquiry that the South African supplier withdrew its decision not to directly supply the complainant. The South African conglomerate has now agreed to supply this local electrical hardware outlet, which will enable it to competitively price its products; and this will come as a benefit to the consumers.

This is indeed was another huge success for the CA to have favourably intervened in the market place to ensure that there is fairness and removal of market strictures.

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University of Botswana students during the CA lecture

## CA ENGAGES UNIVERSITY STUDENTS ON COMPETITION LAW

Innovative product delivery, quality products, a wider choice and lower prices have been identified as some of the benefits of competition to the consumer.

In a lecture to University of Botswana students on 7th November, the Director of Communications and Advocacy, Mr. Gideon Nkala, said competition law controls selfish business gains and consumer exploitation, and strives to facilitate broad based wealth creation through open and fair markets.

“The more players exist in any market, the more the behaviour of market players will answer to the needs of customers and consumers”, Nkala observed. He told the UB students that the Competition Act deals among others with abuse of dominant market position, horizontal agreements, such as cartels, vertical agreements such as resale price maintenance, as well as control of mergers and acquisitions.

Mr. Nkala further informed the students that the CA has dealt with a complaint which was lodged by the UB Student Representative Council

concerning the UB Bookstore. He said the matter has been concluded and the outcome will be communicated to the relevant authorities.

The students were further informed that over and above its market enquiries, the Competition Authority encourages members of the public to report any anti-competitive behaviour which, if established, will be investigated accordingly by the Authority, and redress proffered. The lecture was organised in conjunction with Dr. Selinah Peters of the Department of Family and Consumer Sciences.

The CA continued its public awareness campaign with a lecture to students of Limkokwing University Gaborone Campus.

The interactive Lecture, which attracted over 60 students including officials from the campus, was delivered by Ms. Magdeline Gabaraane and Mr. Innocent Molalapata from the Department of Merger and Monopolies.

They gave an overview of the Competition Authority and the Competition Commission, their mandates, and explained why Competition Law

is important in any economy. Mr. Molalapata explained some aspects of Competition Law, such as Vertical Agreements and Horizontal Agreements, and further took the audience through the process of merger notification.

In her presentation, Ms. Gabaraane informed participants that they are welcome to approach the Authority in case they need to discuss issues concerning any irregularities since the merger assessment process is time sensitive and highly interactive. She further cautioned that if a decision is made on materially incorrect or misleading information from the merging parties, the CA may revoke its decision approving a merger.

In his remarks, the Head of the Faculty of Business at the university, Mr. Nicholas Badasu, thanked the Competition Authority for the lecture on Competition Law in Botswana. Mr. Badasu said it was an eye opener on the important service that the Authority provides to consumers and manufacturers, adding that the CA made a positive impact.

# Councils Trained to Detect and Prevent Bid-rigging

In its continued efforts to sensitise public procurement officials on how to detect and prevent bid-rigging, the Competition Authority held a one day workshop in Kasane on 15th September which was attended by officials from the Chobe District Council, including members of Tender Evaluation Committees.

In his presentation, CA's Legal and Enforcement Officer Mr. Kesego Modongo, gave an overview of the Competition Authority, its mandate, and explained why Competition Law is important in any economy. He further explained some aspects of Competition Law, such as Vertical Agreements, Horizontal Agreements and Abuse of Dominant Position.

In his presentation on bid-rigging, Mr. Modongo informed the participants that as Tender Committee Members, evaluators and adjudicators, they are entrusted with spending huge sums of public funds and therefore they must be vigilant in detecting and prevent bid-rigging in the Government procurement system.

He further implored the participants to approach



The Manager for Legal and Enforcement Ms Tapiwa Masie at a bid-rigging training workshop in Maun

the Authority in case they need to discuss issues concerning bid-rigging, or discover any irregularities in the evaluation of tenders.

The Authority held another training workshop in Maun on 9th September which was attended by North West District Council officials from Gumaré, Shakawe

and Maun who are predominantly in the council tender committees and procuring units.

In her presentation, the Manager for Legal and Enforcement Ms Tapiwa Masie, informed participants that as evaluators of tenders they are given a big responsibility and they must conduct it with the due diligence it requires. She also briefed participants on types of bid-rigging such as bid-withdrawal, bid-rotation and withdrawal of bids.

Workshop participants shared their experiences with respect to the tenders they evaluated and instances where they suspected bid-rigging.



Legal and Enforcement Officer Mr. Kesego Modongo addressing Kasane workshop participants



Participants at the 2014 ICN Advocacy Workshop in Balaclava, Mauritius

## Mauritius Hosts 2014 ICN Advocacy Workshop

The Competition Commission of Mauritius hosted the third annual International Competition Network Advocacy Workshop from the 6th to the 7th of November 2014 in Balaclava, Mauritius. The theme of this year's workshop was Advocacy, Foundations, Strategies and Assessment.

During the two-day workshop, discussions were around the establishment of the foundation for advocacy activities in an agency, development of advocacy strategies, and assessment of the effectiveness of advocacy efforts in promoting a competition culture. The current projects of the Advocacy Working

Group such as the Competition Culture project were also discussed at the workshop.

The workshop had plenary and breakout sessions, in order to encourage reflections and mutual exchange on issues and experiences on the development of advocacy strategies as well as implementation and assessment.

The Competition Authority of Botswana was represented by the Communications and Advocacy Officer Ms. Kelebogile Ngwenya, who also chaired a session on Setting Priorities for Advocacy Initiatives.

## SA Competition Commission Concerned About Exclusive School Wear Agreements

The South African Competition Commission has noted with great concern the emerging trend of exclusive agreements to supply school wear entered into between clothing manufacturers and schools. The Commission noted in a press release that it has emerged that schools enter into long-term exclusive agreements with stockists or manufacturers of school clothing, rendering the arrangements susceptible to contravention of certain provisions of the Competition Act.

The Commission has in the past conducted similar investigations into different levels of the school uniform supply chain, in Gauteng and Mpumalanga and found instances of breach of the Act. An initial assessment has revealed that this could be a nation-wide practice amongst private and public schools.

In the latest case, a Cape Town parent lodged a complaint with the Commission against a school and a specialist school wear retailer that stocks unique school wear and sportswear range for over 60 schools in the Western Cape. The parent alleged that the school and most others in the area have appointed a service provider as their sole stockist for school uniforms, and that the prices charged for various uniforms are too high, leaving consumers with no alternatives.

As a growing concern, the Commission has intensified its advocacy efforts, engaging with national and provincial departments of education, and school governing bodies and other stakeholders regarding the potential anticompetitive effects that may arise from exclusive agreements with school garments providers.

In another development, the Commission has referred to the Competition Tribunal, a case of collusive tendering in respect of tenders for the construction of 2010 FIFA World Cup stadia against WBHO Construction (Pty) Ltd, Group Five Construction Ltd, Stefanutti Stocks Holdings Limited and Basil Read (Pty) Ltd. Murray & Roberts Limited has been granted leniency in respect of this conduct. The Commission's investigations found that the firms colluded when bidding for tenders for the construction of 2010 FIFA World Cup Stadia by, among others, allocating tenders among themselves and agreeing on profit margins to be achieved from the tenders.

Source: SA Competition Commission

# COMPETITION AUTHORITY IN PICTURES

## UNIVERSITY OF BOTSWANA STUDENTS BRIEFED ON HOW COMPETITION BENEFITS THE CONSUMER



### Captions

1. Communications and Advocacy Director Mr. Gideon Nkala addressing UB students    2. Dr. Selinah Peters of the UB Department of Family and Consumer Sciences    3. Communications and Advocacy Manager Ms. Gladys Ramadi briefing the students    4. A student giving a vote of thanks

# LIMKOKWING UNIVERSITY STUDENTS BRIEFED ON COMPETITION LAW



## Captions

1. Limkokwing University participants at the CA lecture 2. (From left to right) CA's Mr. Ridwell Moremi, Mr. Innocent Molalapata and Ms. Magdeline Gabaraane 3 & 4. Limkokwing University participants at the CA lecture

# Councils Trained to Detect and Prevent Bid-rigging



## Captions

1 & 2. Participants of the North West District Council Bid-rigging workshop 3 & 4. Participants at the Chobe District Council Workshop

# 2014 ICN ADVOCACY WORKSHOP



## Captions

1. (From left to right) Mr. David Lamb des Valdes of Mexico Competition Agency, Ms. Kelebogile Ngwenya of Botswana and ACF's Mr. Omar Jobe at the ICN Advocacy Workshop in Mauritius 2. Mr. Bruno Lasserre President of the French Competition Authority (left) with Ms. Kiran Meetarban Executive Director, Competition Commission of Mauritius with another workshop participant 3 & 4. ICN Advocacy Workshop Participants

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