In-House Brands: The case of Millers Vs Retail chain stores in Botswana

Authors: **Ernest B.L. Bagopi** (Manager Investigations and Research Analysis – Competition Authority of Botswana – Chartered Marketer South Africa (CMSA)) and **Christson Daman** (Analyst Competition and Research Analysis – Competition Authority of Botswana.

PREFACE

(Research Provision in the Competition Act)

According to section 49 (1) of the Competition Act (Botswana), the Competition Authority can initiate market inquiries in particular sectors of the economy. These inquiries refer to conducting market research in identified sectors of the economy. Such research is a means to provide relevant, valid and up-to-date information mainly for decision making in competition matters by either the Authority, the Competition Commission (Board of Directors) or any other party. The research also enables the Authority to advice Government on the actual or likely anti-competitive effects of current or proposed policies (and how to avoid those effects).

To fulfil the mandate of the Authority, the research output should be continuous and up-to-date. The inquiries can be done at the macro level (sector research); and can also be done at the micro level in terms of specific firm-level assessments. Some of these inquiries can be done in-house by analysing the available information/data, while others require field surveys. In that respect, this inquiry about In-House Brands required a field inquiry mainly because there were no data available to address the set objectives.

In all these instances of research, the Authority seeks to understand market structures or characteristics, as well as areas of unfair competition. Sectoral studies involving field work, such as the In-House Brands, are an important part of the Authority's advocacy strategies, which play a pivotal role in ensuring fair play in the market place.

ABSTRACT

The growth of retail stores in Botswana has been underpinned by an emerging marketing concept called In-House branding. In-House Brands are brands that belong to a particular retail store as opposed to the traditional Family Brands which are owned by manufacturers. These In-House Brands compete with traditional Family Brands and are generally cheaper; little is spent by way of advertisement. They rely mainly on a store's allure and are mainly found under commodity products, or products that are known to be traffic pullers in retail outlets. Conventionally, manufacturers used to manufacture and package their own branded products and sell these to wholesalers/retailers who in turn sold to consumers. However, since the retail sector is product centric, manufacturers' now aim to maximise production capacity by also packaging In-House Brands for retail store customers.

From a consumer perspective, In-House Brands provide a cheaper alternative to the conventional Family brand and are in-fact perfect substitutes. Is there reason for competition agencies to be worried by the growth of In-House Brands? The following points could help in consideration of this question:

- the shift of power from manufacturers to the dominant retail stores; and
- the influx of these In-House Brands on retail store shelves and crowding out of Family Brands and the resultant competition issues.

The objective of this paper is to demonstrate how In-House Brands as a new phenomenon, shape competition in the retail sector in Botswana. It will also challenge competition agencies whether to worry about this new phenomenon, i.e., If this is replacing one monster with another? The paper is based on a study undertaken by Competition Authority (Botswana), titled, '**In-House Brands: The Case of Millers vs Retail Chain Stores in Botswana**'

Contents

1.0 Introduction

The Competition Authority is a statutory body established under section 4 of the Competition Act, 2009. Amongst its functions the Authority is expected to undertake general market studies, whether by way of a market inquiry in terms of the Competition Act or otherwise, on the effectiveness of competition in individual sectors of the economy. Arising from this function, the Authority took the initiative to carry out a market study on In-House Brands[1] in the retail sector. This was based on the various complaints put forth by upstream players such as manufacturers and wholesalers in the retail industry.

A brand can be defined as a labelling or marking attached to a manufactured product that is licensed to a particular enterprise. In-House Brands[1] can therefore be defined as internal brands for retail stores. Basically, In-House Brands are brands that belong to or are licensed to that particular retail store. Locally most retail stores (international or indigenous) do not have the capacity to produce their own brands, therefore, they engage in contractual agreements with local manufacturers for the production and packaging of In-House Brands. In order to address the most prevalent complaints on this matter, a probe into the milling industry in Botswana was proposed. The phenomenon of In-House brands is not only found in retail chain supermarkets, but has also been adopted by wholesalers (in Botswana). The following are some of the grocery retailers and wholesalers that boast of In-House brands: Pick n Pay **(No Name brand and PnP)**; Shoprite and Checkers **(Ritebrand and Checkers brand**); Choppies **(Choppies brand)**; Spar **(Spar brand),** Sefalana Cash and Carry **(AStar brand)**; Trident **(Econo)**; Woolworths **(Woolworths brand)** etc.

2.0 The market of inquiry

2.1 Brief history of the market

The commercial milling industry in Botswana is approximately 30 years old, with the early market entrant having commenced operation in 1984. The industry is typically comprised of two major players who enjoy a 90% combined market share at a ratio of about 60:40. The last two market entrants came after 1997 and enjoy the remaining 10% market share together with other small millers. All the millers primarily mill maize and wheat products with the exception of one of the late market entrants which only mills maize. Characteristically, the above millers package and

[1] A brand name used exclusively by a retailer (or a selected group of retailers) for a product or line of products that are typically sold for prices lower than that of comparable items with manufacturer brand names. http://www.oxforddictionaries.com/

sell their own products commonly known as Family Brands. However, the current practice is that millers have expanded their production to packaging products (In-House Brands) for different retail stores.

2.2 Prevalent business practices

Currently, the market is product centric,[2] comprising primary operators which are the manufacturers, who basically source raw materials (locally), process and sell them as packaged products. This process entails a multi-faceted value chain which stems into wholesalers and retailers. This is a separation from the norm (value chain), where dynamics in the playing field has shifted. Most retailers now source directly from manufacturers cutting out the middle man. Some are vertically integrated as they compete with the same manufacturers. Buying groups[3] have now emerged in the industry, hence retailers hold immense buying power and have control over shelf space.

2.3 Government's presence/leverage in the market

The Government through the Botswana Agricultural Marketing Board (BAMB) acts as a market for locally grown cereal crop and, in turn, supplies the local milling industry with raw material. This industry was initially protected by a 15% import levy[4] on wheat and wheat products. In 2014 the Ministry of Investment, Trade and Industry took the decision to gradually phase out the levy at the rate of 1.5% every year. The levy currently stands at 10.5%. This is coupled with regulations on imports of maize and maize products which require importers to source 70% of their inputs locally. The effects of such tariffs and quotas have to be closely monitored to ensure that they correspond with gradually changing market dynamics. However, this development has not been well accepted by the local millers as they feel that import competition will eventually consume them and force them to exit the market. The feeling is that millers outside the country enjoy economies of scale and therefore can afford to sell at much lower prices (in Botswana). On the contrary local bakers as well as retailers celebrate the new development and even feel that the period for phasing out of the levy is too long, they report that prices from local millers are too high.

2.4 Customary business practices, commercial terms and conditions

The resale of finished product to retail stores is characterised by confidential trade rebates and discounts, manufacturers' pay discounts on transport, advertising, swell allowance and damage in transit. Contrary

2 Product centric businesses concentrate on their products more than on their customers. They invest money and effort in developing new, better products, and their product lines define their business identities.
3 An association of companies who use their combined purchasing power to achieve the best prices from suppliers http://www.collinsdictionary.com/dictionary/english/buying-group
4 The Government of Botswana imposes a 15% Levy on all imported wheat and wheat products from all sources.

to the norm, retail chain stores have established buying groups and now absorb the bulk of manufactured product.

2.5 Research problem

Prompted by numerous complaints from the Botswana Millers Association,[5] the In-House Brands aspect emerged to be of interest. The complaints advanced by members of the Botswana Millers Association alleged unfair business practices emanating from various players along the supply value chain, specifically retail chain stores. For purposes of understanding the market and responding to the complaint, the Authority carried out an inquiry in order to establish possible anti-competitive conduct in relation to In-House Brands. The Authority sought to gain a deeper insight into the In-House brand phenomenon which included production, resale and general impact on Family Brands[6]. The primary focus of the inquiry was on the manufacturers (especially the milling industry) and the entities that source from them (retail stores). This, therefore, entailed administering questionnaires to millers and retail chain stores.

2.6 Research objectives

The objective of the study was to understand the nature and effects In-House brands have on the state of competition in the retail industry in Botswana: The case of Millers vs Chain Stores.

Specific study objectives were to:

(i) probe for possible anti-competitive issues that chain store through In-House brands may pose on millers' family brands, and make recommendations on issues that affect the regulatory framework.

(ii) understand the value, structure, terms of trade and business practice that entail In-House brands and Family brands in order to increase transparency and competition.

3.0 Methodology

3.1 The geographic coverage

The inquiry focused wholly on major mill operators (upstream market) and retail chain stores (downstream market) located in the Southern and South East district of Botswana. This entailed Gaborone, Ramotswa and Pitsane areas. The rationale being that the administrative hubs of the main

5 An association of Botswana maize and sorghum mill plant owners

6 A family brand may be referred to a group of different products belonging to a single brand that are marketed under their parent brand. The different products with different images are put under the major brand or the parent brand. The family brand is also referred to as an umbrella brand. http://www.mbaskool.com/business-concepts/marketing-and-strategy-terms/8407-family-brand.html

market leaders (in terms of market share) of both millers and retail chain stores are located in these regions.

3.2 Sampling frame

It is important to note that the scope of the study encompassed locally milled products (Family brands) and retailer own brands (In-House brands). Milled products were selected for two primary reasons; firstly, they are staple foods which represent preferences of most Batswana; secondly, the selected family brands command a high level of brand identity in the retail sector.

From a business perspective however, most local retail stores began their venture into In-House brands with the packaging of maize meal products through local millers therefore; these products were found to be highly established in the market. This was done to ensure proper representation of the general market dynamics between In-House and Family brands.

The frame comprised two primary sampling units, namely major mill operators and retail chain stores. Taking this into account, a purposive sample of four (4) millers and three (3) chain stores were selected as follows:

Table 1: Sampling frame

Miller	**Retailer**
Miller 1	Retailer 1
Miller 2	Retailer 2
Miller 3	Retailer 3
Miller 4	

3.3 Method of data collection

The data collection method was that of direct interview; utilising structured questionnaires with a mix of both open and close ended questions. Two types of questionnaires were formulated and administered, one specifically for millers and the other for retail chain stores. Both tools were supplemented by a price collection schedule.

4.0 Limitations of the Inquiry

Even though the study was conducted successfully, it is prudent to highlight the limitations faced. Firstly, the study was conducted off the backdrop of the shopping mall study and therefore had no specific funds set aside for it. The study aimed at encompassing a wider range of In-House brands, but due to the limitation of funds the scope was limited.

Only locally milled products and two players in the value chain specifically millers and retail chain stores were selected (hence other In-house brands produced from outside the country as well as consumers, were left out). As the study was the first of its kind in the SADC[7] region there was limited opportunity for bench-marking or literature review. Furthermore, In-house brands received limited attention worldwide; the studies conducted had significantly different contexts and focus and therefore offered little insight.

5.0 Findings

5.1 General economic overview of the industry

In any given economy there exist market forces at play which determine outcomes in trade and the general relation of stakeholders. The retail sector in Botswana, just like in any other economy, is vulnerable to these forces.

5.1.1 It also encounters the laws of demand and supply which, in turn, bring about forces like bargaining/buyer and retailer powers. Buyer power is essentially the ability of a buyer to obtain more favourable buying terms than would be possible in a fully-competitive market.[8] Retailer power is the access to and ability of an entity to influence consumers.[9] It is imperative that this inquiry gives a perspective of the balance of these forces as they are a crucial aspect in determining the wellbeing of any industry.

5.1.2 The retail sector value chain in Botswana is characterised by three main stakeholders, namely; the manufacturers, wholesalers/distributors; and retail stores. The structure of this supply chain can be depicted by a pyramid structure, with a hand full of manufacturers at the start of the chain (upstream market) which translates to a slightly higher number of wholesalers and eventually a large number of retail outlets (downstream market). The stakeholders are generally connected by linking middle men who provide peripheral services such as transport or distribution. This supply chain primarily serves a Fast Moving Consumer Good Market (FMCG)[10] and therefore it is characterised by high product volumes serving a large number of consumers. With this at hand, a healthy relationship between these stakeholders is integral to the welfare of

[7] The Southern African Development Community

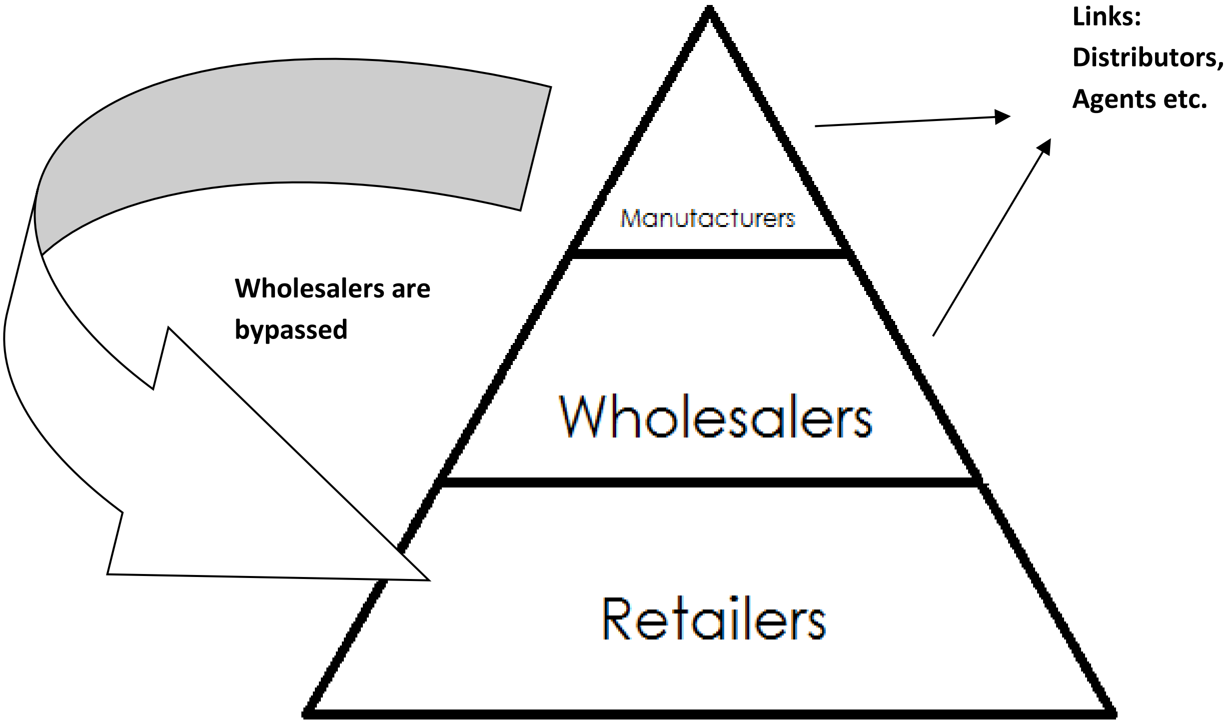
[8] The relationship between supermarkets and suppliers: What are the implications for consumers; Catherine Nicholson, Consumers International; 2012

[9] ibid

[10] These are products that are sold quickly and usually have low costs and low margins.

consumers; any imbalance can be detrimental. Developments that have occurred post year 2000 in this sector have seen industry players augment their roles. Investors consolidated the same brand stores from individually owned franchises into retail groups, while strong new entrants entered the market triggering a nationwide influx of retail chain stores.

Diagram 1



Source: Data Collection 2014 Shopping Mall Retail Property Market Study

5.1.3 This influx effectively skewed the balance of trade; retail stores now demand high product volumes, which include In-House brands, this led to an increase in their buying power. This, coupled with retailer power (influence over consumers), has made retail stores formidable players in the industry. Therefore, retail stores in Botswana have more bargaining power than local manufacturers and suppliers. Their demand for high volumes has overwhelmed the minimal number of available wholesalers and this has led to wholesalers being bypassed. Retail stores now approach and negotiate with local manufacturers directly. Given retail stores apparent leverage, and as stated by the four (4) milling entities interviewed, the negotiated terms of trade benefit the retail stores more.

The table below illustrates the current general terms of trade that were revealed pertaining to the local industry.

Table 2: Terms of Trade Outline

Prevalent Terms of Trade	Potential threats by retailers on manufacturers
De-listing[11]/threat of de-listing When manufacturers refuse to reduce prices or make other payments and concessions.	• Threats of de-listing weakens the manufacturers bargaining power and ultimately its production plans • Actual de-listing can eventually lead to loss in volumes and foreclosure of the manufacturer as the retailers' space is an essential facility.
Demanding extra or unforeseen discounts or payments from manufacturers Manufacturers pay advertising fees in order to promote the products they sell.	• Manufacturers are expected to pay advertising fees on both In-House and Family Brands.
Demanding retrospective payments, extra discounts, and after-sale rebates Deducting a percentage of the total sales of a particular manufacturer for that year so as to ensure high volume sales and loyalty.	• This in effect lowers the manufacturer resale price, that is, price to the retailer. This can facilitate low prices for consumers in the short term, but can prove to be of detriment to the market once Family Brands are marginalised.
Return of unsold goods to manufacturer At the manufacturer's expense, including fresh produce that cannot be resold.	• Cost and risk of retailers' forecasting errors passed back to manufacturer.
Late payments For products already delivered and sold.	• Adversely affects manufacturers' cash flow. • Leads to additional finance costs and uncertainty over how much they will be paid.
Influencing product availability to, or raising the costs of, other retailers By demanding lower buying prices than all other retailers or demanding limited supply to other retailers.	• Increases costs to competitors, affects the availability of products to other retailers, and thus constrains the volumes available to retailers.
Promotion of retailers' own brands Squeezing out third-party brands; some copy-cat packaging issues; requiring brand owners to divulge development intentions so that retailers can pass them on to their own brand manufacturers.	• Loss of volume and profitability.
Swell Allowance[12]	• Discount on spoiled or damaged goods.

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

6.0 In-House brands study: Competition Authority

The above listed terms of trade are also internationally recognised as common abusive strategies applied by retail stores (Explicitly these terms lower manufacturer resale price by 10% to 15%, and this does not take into account swell allowance, late payments and return of unsold

11 Remove (a product) from the list of those sold by a particular retailer. https://en.oxforddictionaries.com/definition/delist
12 The Swell Allowance Program is a systematic method of automatically deducting a fixed percent from vendor's invoice payments to compensate the Agency for items not fit for sale and is designed to ensure the Agency, as a whole, is properly reimbursed.

goods).[13] It is important to note that these terms apply equally to both Family and In-House brands.

6.1 Basically manufacturers experience some degree of price taking from retailers. The demand made by retailers to have Family brands priced at a certain percentage level higher than In-House brands can be tantamount to vertical price fixing. Notwithstanding this, retail stores also have retailer power and this allows them to resell products; especially In-House brands at any quantity. The contention arises when retail stores who have In-House brands become competitors with the same manufacturers they source In-House brands from. This opens up suitable conditions for abuse of a dominant position, possibly through refusal to deal, margin squeeze and excessive pricing.

6.2 In the interest of giving symmetry to the perspective of the study, it is prudent to highlight notable benefits that retail stores present in the FMCG sector. That is, benefits specific to the introduction of In-House brands.

6.3 The notable advantage of In-House brands to the FMCG sector value chain is consumer welfare. Consumers benefit from the low prices of In-House brands as well as the variety of products that give consumers a wider choice. However, this may be only a short term benefit to consumers; because if Family brands are marginalised, there is a possibility of them exiting the market, leaving In-House brands dominant, which in the long run may lead to abuse of position as a result of reduced competition.

7.0 General overview and existing trends: manufacturers (millers)

It is imperative to give a general overview of the prevalent market characteristics that emerged during the inquiry. The milling industry significantly contributes to the In-House brand phenomena through the milling and packaging of a variety of products therefore their perspective is integral to this inquiry. Data was collected from all the sampled milling operations. Table 3 details the qualitative findings compiled from questionnaires administered to the four local millers.

13 The relationship between supermarkets and suppliers: What are the implications for consumers; Catherine Nicholson, Consumers International; 2012

Table 3: General Overview and Trends

General	
1.	From the four millers interviewed, all stated that they mill and package In-House brands.
	The longest running In-House brand packaging contract is 10 years.
3.	The longest operating mill is 30 years old.
4.	Both wholesalers and retailers utilise the packaging process with local millers.
5	The products packaged are flour, maize meal, pasta, sugar and eggs.
Trends	
6.	All millers stated that over the period of their packaging contracts, In-House brands are the ones that showed substantial growth. They attribute the growth of these brands to them being generally cheaper (at retail store level) and the significant shelf space they are allotted.
7.	Nonetheless, millers stated that production of Family brands is more profitable to their operation than In-House brands.
8.	Millers indicated that the cost of milling and packaging In-House brands is the same as that of Family brands, but rebates and discounts augment resale prices on store shelves.
9.	Millers indicated that retailers control the volume and type of product supplied in the market and as such have the leverage to push In-House brands at the detriment of Family brands.
10.	In-House brands are of equal quality compared to Family brands as they are manufactured and packaged by the same manufacturers using the same production quality specifications and standards. That is, Family brands and In-House brand products are produced from the same pot and the only difference is the packaging.
11.	In House branding as the latest marketing strategy is not only done by retailers, but also wholesalers and the conditions are generally similar.
12.	Local consumers are generally loyal to a brand, but a price difference of 5% or more in favour of a competing brand may result in a switch to the latter.

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

7.1 General overview and existing trends retail chain stores (retailers)

Conventionally, retail stores formed the end of the supply value chain as they were a link between wholesalers and consumers. Currently, the norm has changed and retail stores buy directly from the manufacturers (refer to diagram 1). Consequently, because of this phenomenon there is an emergence of buying groups formed by retail stores. Furthermore, retail stores own and control shelf space and therefore hold an essential facility for both In-House brands and Family brands. The following tables 4, 5, 6 and 7 show the actual responses to a series of multiple response questions[14] by the three selected retail stores. The questions posed covered motivation to stock, pricing strategy, relative price to Family brands and categorisation of In-House branded products.

Table 4: Motivation to stock In-House brands

[14] These are questions that offer multiple choice responses to a single a single question. Respondents may opt for one or more responses

		Motivation to Stock House brands			
Retailer	**In-House**	**Demand**	**Product Mix**	**Capturing Market**	**Profitability**
Retailer 1	Yes	x		X	x
Retailer 2	Yes				x
Retailer 3	Yes	x	x	X	x

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

All the retail stores studied, stock and sell In-House brands and cited profitability as the driving factor for this strategy.

Table 5: Strategy for pricing In-House brands

	Strategy for Pricing In-House brands					
Retailers	**Growth**	**Mark Up**	**Vendor**	**Competitive**	**Psychological**	**Other**
Retailer 1	x	x				
Retailer 2		x				
Retailer 3	x	x	x			

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

In terms of pricing trends, all the three retail stores envision their In-House brands growing in relation to demand. This implies that retail chain stores now focus their efforts on promoting In-House brands over all other brands. This may disadvantage Family brands and subsequently consumers. All the retail chain stores stated that they use mark up as primary pricing tool.

Table 6: Pricing on In-House brands

		Pricing on In-House brands				
Retailers	**In-house Cheaper**	**Economies of Scale**	**Efficiency**	**Vertical Integration**	**Shelving**	**Advertising**
Retailer 1	Yes		x			
Retailer 2	Yes			x		
Retailer 3	Yes	x	x			

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

All retail stores stated that In-House brands are generally cheaper, and most of them cited efficiency as the key factor that ensures lower prices. However, considering retailers bargaining and retailer power, terms of trade reached between retailers' and millers also reduce retail stores' cost price.

Table 7: Categorisation of In-House brands

Retailers	Categ. Shelf	Demand	Initiatives local	If Yes	Outsource Pack
Retailer 1	No	x	Yes	Local Suppliers	Yes
Retailer 2	No	x	Yes	Local Suppliers	Yes
Retailer 3	Yes	x	No	N/a	No

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

Only one retail store attested to the fact that it categorises shelf space according to In-House and Family brands. In terms of initiatives in place to support local businesses, only two retailers confirmed that they have such initiatives in place, which include sourcing In-House brands locally. However, indications are that retailers are moving towards vertical integrating (mainly backwards) into manufacturing and this is done through subsidiary companies.

7.2 Price analysis

It is important to note that interviews with the different millers indicated that the pricing of In-House brands and that of Family brands were not the same. Therefore, a price analysis for a basket of goods was carried out in order to understand the difference in pricing, as well as probe for any possible anti-competitive practices that may be prevalent. Only two (2) milling operators responded to the inquiry. Data on maize meal products was acquired and a synopsis is detailed in Table 8.

Table 8: Average maize meal price (2014) for two millers

Miller 3 Price Per 12.5 Kg	Miller 2 Price Per 12.5 Kg
42.66	**44.19**

Source: Data Collection 2014 Shopping Mall Study

A price analysis for the two millers showed price (cost to retailer) range for maize-meal to be between **P42.66** to **P44.19** per 12.5 kg bag. A threshold was derived by averaging cost prices for maize products in 2014. The figure stood at **P43.42** per 12.5 kg bag and this was compared with the previously collected retail store prices with intent to examine if the prices were competitive and not predatory.

7.3 Price comparison across manufacturers (millers) and retail chain stores (retailers)

A comparison for the year 2014 maize meal prices, between Retailer 1 and Retailer 2 In-House brands, was set at **P47.95** and **P68.00 per 12.5kg,** respectively; these were found to be beyond the average cost price (of manufacturers) and therefore dispelled any indication of price predation[15]. Still, sourcing from tables 9 and 10, the average 12.5 kg maize meal product price stood at **P50.00.**

Comparing this with individual cost prices revealed that Retailer 2 brand (refer to table 9) was priced at P68.00 a bag, which is 30% above the said average. This instance infers very high profit margins when comparing with competing retail chain store(s) In-House brands. Considering Retailer 2 maize meal In-House brand, priced at P68.00 per 12.5kg bag, at the time was generally higher than both Family brands (sold at Retailer 2) yet the In-House brand still sold more. Through observation, it is possible that the constant availability of Retailer 2 In-House brand on the shelf throughout the month might have some bearing on these sale dynamics; this shows the effect of retailer power. Although family brand maize meal was listed by Retailer 2, observation showed that it was not equally available on the shelf and this made In-House brands primarily the only products available for consumers to choose from.

7.4 Price comparison across retail store (In-House vs Family brand)

In carrying out price comparisons at retail store level, a basket of goods that comprised rice, maize-meal, bread, sugar and flour was identified. A series of prices running from 2012 to 2014 was requested from three major market leading retail chain stores. The prices considered were for staple foods prone to In-House brand substitution. Only Retailer 1 and Retailer 2 responded to the data request. However, the data were sufficient and representative enough to run comparisons.

15 Predatory pricing is a deliberate strategy, usually by a dominant firm, of driving competitors out of the market by setting at very low prices or selling below the firm's incremental costs of producing the output (often equated for practical purposes with average variable costs). Once the predator has successfully driven out existing competitors and deterred entry of new firms, it can raise prices and earn higher profits. https://stats.oecd.org/glossary/detail.asp?ID=3280

Product comparison (maize meal and other basic products)

Table 9: Retailer 2 price and volume[16] (%)

		In-House	**Family brand 1**	**Family brand 2**
Price 2012	Maize-meal (12.5 Kg)	Retailer 2 50.15 (64.93)	Whitestar 58.00 (30.14)	A 1 Super 62.00 (4.93)
Price 2013	Maize-meal (12.5 Kg)	Retailer 2 57.53 (44.58)	Whitestar 43.95 (19.83)	A 1 Super 69.92 (35.59)
Price 2014	Maize-meal (12.5 Kg)	Retailer 2 68.00 (69.32)	Whitestar 42.45 (23.63)	A 1 Super 47.45 (7.06)
	Total (%)change (2012 – 2014)	**26.25**	**-36.63**	**-30.66**
Price 2012	Rice (10Kg)	Retailer 2 84.00 (87.13)	Tastic 106.00 (10.03)	Surprise 112.00 (2.85)
Price 2013	Rice (10Kg)	Retailer 2 84.00 (43.32)	Tastic 104.00 (56.36)	Surprise 106.00 (0.21)
Price 2014	Rice (10Kg)	Retailer 2 84.00 (17.08)	Tastic 106.00 (82.59)	Surprise 119.00 (0.33)
	Total (%)change (2012 – 2014)	**0.00**	**0.00**	**5.88**
Price 2012	Sugar	Retailer 2 38.45 (44.99)	Blue Crystal 40.00 (26.25)	Bokomo 43.00 (28.76)
Price 2013	Sugar	Retailer 2 37.00 (52.51)	Blue Crystal 41.00 (12.60)	Bokomo 45.09 (34.90)
Price 2014	Sugar	Retailer 2 36.50 (17.59)	Blue Crystal 41.00 (1.82)	Bokomo 43.00 (80.59)
	Total (%)change (2012 – 2014)	**-5.34**	**2.44**	**0.00**
Price 2012	Loaf (White)	Retailer 2 5.95 (98.93)	Maxi 10.60 (1.07)	
Price 2013	Loaf (White)	Retailer 2 5.95 (99.10)	Maxi 9.75 (0.90)	
Price 2014	Loaf (White)	Retailer 2 5.95 (98.69)	Maxi 9.75 (1.31)	
	Total (%)change (2012 – 2014)	**0.00**	**-8.72**	

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

7.5 Table 9 detail prices and sales volumes (only data from Retailer 2 reflected volumes) for Retailer 2. The data displays that, Retailer 2 In-House brands are generally priced below other product categories. In terms of individual

16 Volumes sold are depicted by the figures in the brackets

products, Retailer 2 In-House brand (maize-meal) price increased by 26.25% over a three year period (2012 to 2014) while competitor brands (Family brands) decreased by over 30%.

Table 10: Retailer 1 price and volume (%)

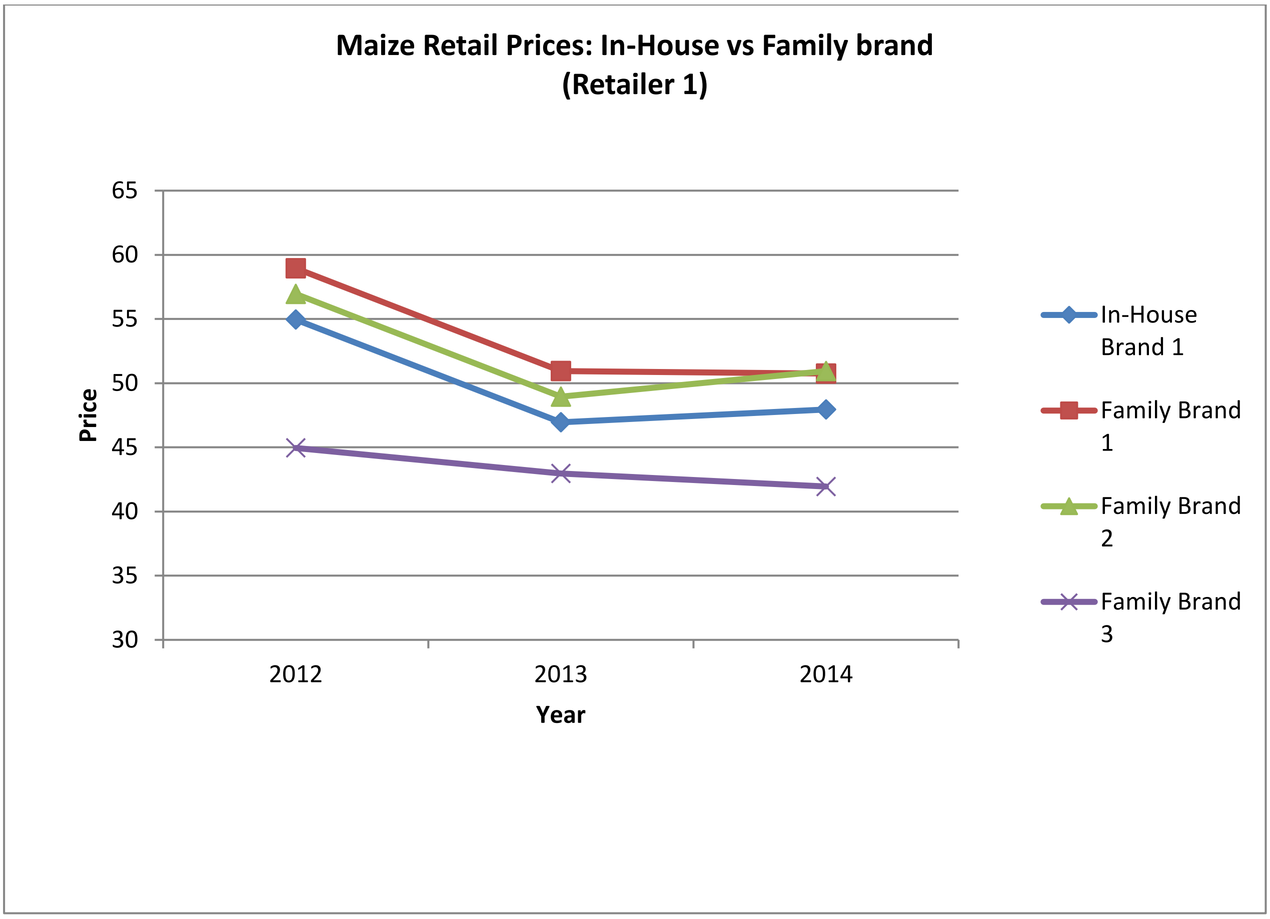
		In-House	Family brand 1	Family brand 2	Family brand 3
Price 2012	Maize-meal (12.5 Kg)	Retailer 1	White Star	A 1 Super	Fresh mills
		54.95	58.95	56.95	44.95
Price 2013	Maize-meal (12.5 Kg)	Retailer 1	White Star	A 1 Super	Fresh Mills
		46.95	50.95	48.95	42.95
Price 2014	Maize-meal (12.5 Kg)	Retailer 1	White Star	A 1 Super	Fresh Mills
		47.95	**50.75**	**50.95**	**41.95**
	Total (%) change	**-14.60**	**-16.16**	**-11.78**	**-7.15**
Price 2012	Rice (10Kg)	Retailer 1	Tastic		
		89.95	99.95		
Price 2013	Rice (10Kg)	Retailer 1	Tastic		Speko
		82.95	98.95		96.95
Price 2014	Rice (10Kg)	Retailer 1	Tastic	Surprise	Speko
		74.95 (19.07)	**94.95 (80.01)**	**118.95 (0.89)**	**99.95 (0.03)**
	Total (%) change	**-20.01**	**-5.27**	**0**	**3.00**
Price 2012	Sugar	Retailer 1	Blue Crystal	Pure Sugar	Selati
		92.95	99.95	94.95	97.95
Price 2013	Sugar	Retailer 1	Blue Crystal	Pure Sugar	Selati
		92.95	99.95	94.95	109.95
Price 2014	Sugar	Retailer 1	Blue Crystal	Pure Sugar	Selati
		89.95 (79.85)	**117.95 (16.34)**	**104.95 (3.58)**	**114.95 (0.22)**
	Total (%) change	**-3.34**	**15.26**	**9.53**	**14.79**
Price 2013	Loaf (White)	Retailer 1	Capri	Nutri	
		4.95	6.95	8.95	
Price 2014	Loaf (White)	Retailer 1	Capri	Nutri	
		4.95 **(96.56)**	7.95 **(3.31)**	8.95 **(0.13)**	
		0	**12.58**	**0**	

Source: Data Collection 2014 Shopping Mall Retail Property Market Study

7.6 Table 10 data show prices for Retailer 1 (In-House) brands contrasted with leading Family brand products. The data indicates that In-House brands generally maintain a lower price which generally decreases over the entire period observed. In terms of percentage of volumes sold, Retailer 1

In-House brands are only dominant for sugar and bread categories, while rice and maize-meal Family brands are still stronger.

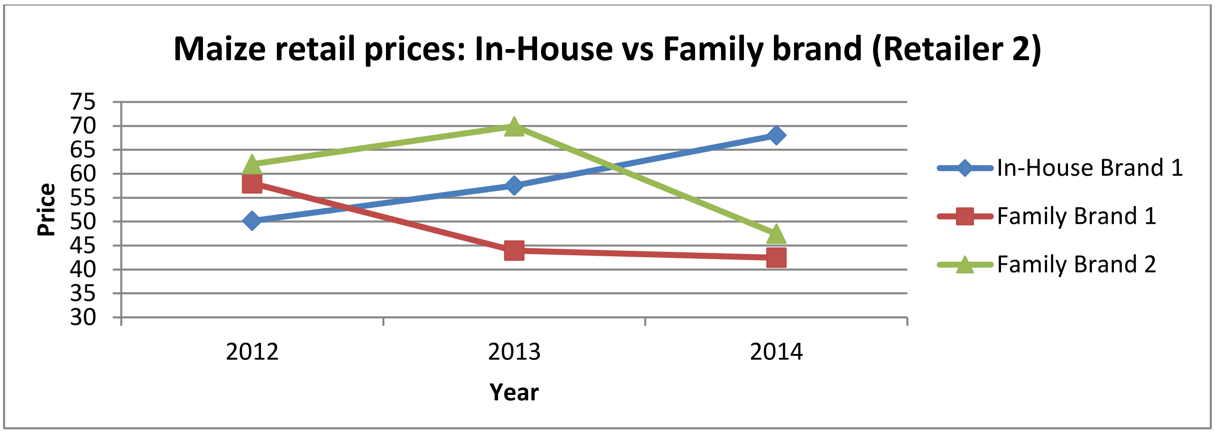
Chart 1



Source: Data Collection 2014 Shopping Mall Retail Property Market Study

7.7 Chart 1 illustrates a decrease in shelf prices for maize-meal products over the period of 2012 and 2013 for Retailer 1. In-House brands here show a parallel decrease in price compared to Family brands to two (2) of the Family brands. However, the In-House brands prices were much lower, only one (1) Family brand is priced lower than all products.

Chart 2



Source: Data Collection 2014 Shopping Mall Retail Property Market Study

7.8 Chart 2 illustrates the increase in shelf price for maize-meal products over the observed three (3) year period for Retailer 2 chain stores. In-House brands show a constant increase in price, while Family brands generally decrease over the same period.

7.9 In terms of volumes, the Retailer 2 In-House brand consistently sells more than any other brand, and in the year 2014, it accounted for 69.32% of total sales of maize-meal products at Retailer 2 chain stores. This implies that an increase in the price of the Retailer 2 maize-meal In-House brand does not affect its demand. This price increase that does not affect the quantity demanded (commodity of a similar quality) defies the basic laws of demand and supply, if there is a perfect substitute that is competitively priced. Interviews with manufacturers revealed that retailers may purchase Family brands that are substitutes to In-House brands, but not necessarily avail (Family Brands) shelf space to allow them to compete with In-House brands.

7.10 In the sugar and bread categories, Bokomo's Family brand (Pure Sugar) dominates sugar sales, whilst Retailer 1 In-House brand is dominant in terms of bread sales. Since retail stores have control of shelf space, product volumes and retail price, these dynamics may provide a favourable platform for abuse of a dominant position.[17] According to the Competition Authority Monopolisation and Abuse of Dominance guidelines, the following may be possible in retail sector:

[17] An abuse of dominant position has occurred or is occurring and the provisions of section 30 do not apply to the matter or do not apply sufficiently to offset the adverse effects on, or absence of, competition, the Commission shall give the enterprise or enterprises concerned such directions as the Commission considers necessary, reasonable or practicable.

- *The conduct or practice of one or more enterprises may cause or is likely to cause serious or irreparable harm to the market or consumer; or*
- *One or more enterprises possess such economic strength in a market as to allow the enterprise or enterprises to adjust prices or output without effective constraint from competitors or potential competitors.*

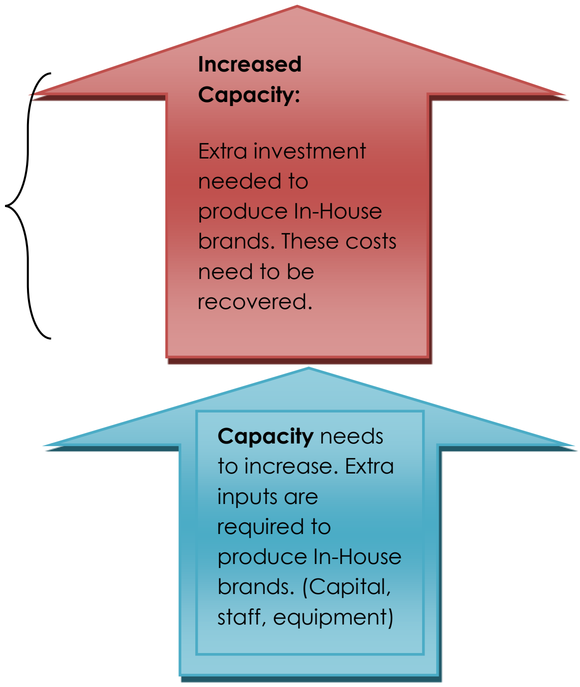
In this instance:

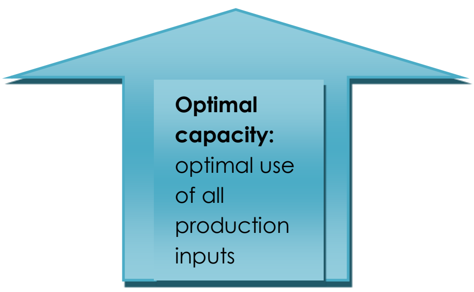
7.11 Through the control of product volumes and shelf space, which translates to retail power (having to control which products are available to consumers), retail stores may inundate shelves with In-House brands thus foreclosing Family brands and effectively limiting consumer choice. This may lead to an excessive price for In-House brands (in long the run) as they (In-House) will have minimal rivalry on the shelves. Through the scrutiny of local retail stores monthly promotional sale pamphlets, In-House brands are the prominent products highlighted. In-fact, some of the retail stores predominantly advertise In-House brands during mid-month sales promotion.

7.12 Some retail stores may opt to vertically integrate backwards into manufacturing of In-House brands. This may be achieved by foreclosing or weakening competition in the upstream market (manufacturers).[18]

Diagram 2

As detailed above in table 2, Late Payments, swell allowance and other locally prevalent terms of trade put manufacturers at the mercy of retail stores. A retailer can easily pay late, return goods (swell allowance) reduce volumes ordered in order to land a manufacturer in financial constraint.





[18] All the three manufacturers interviewed reported that retailers used late payments, threats to delist, swell allowance (mainly) and other terms of trade to weaken them on the upstream at retail level (Family brands).

In a sector where terms of trade favour retailers (see table 2), there is high possibility of abuse of dominance through foreclosure. Diagram 2 illustrates how the process may unfold. Interviews with local manufacturers showed that some retail stores increase their sales output (Millers) through In-House brands and thereafter they (retail stores) vertically integrate (mostly backwards). This is done after strengthening the presence of the In-House brand of a particular product. Subsequently the retail stores pull out from the supply agreement with the initial miller after achieving consistent self-supply (and market growth). If the initial miller's business (supplier) was highly reliant on the production of this particular In-House brand (which is mostly the case), it may struggle to rebuild its Family brand after the retail chain store decided to cut off the supply agreement and this may lead to the manufacturers (millers) exiting the market. That is, in the instance where the affected manufacturer has not diversified product lines and is highly dependent on this particular In-House brand, this may lead to foreclosure.

7.13 Due to the large volumes they acquire, retail stores may use that leverage to either dictate prices or negotiate terms of trade in their favour. The study revealed that, through terms of trade, In-House brands are required (by retailers) to be priced at an average of 5% less than Family brands (despite the two brands production costs being the same). This may intensify In-House brands leverage allowing them to predate on Family brands on the shelves and ultimately ensuring an effective margin squeeze[19]. By being priced less than Family brands in the upstream market (at manufacture level), In-House brand may erode margins of competing Family brands at retail level.

7.14 Retail stores control the essential input in the form of shelf space and at that point the lower priced In-House brand may vary prices with enough leeway to squeeze the margins for Family brands.

7.15 To remedy this potential encroaching of In-house brands on the FMCG market, capping of In-House brand volumes may be considered. FMCG's have a very strong presence in the commodity basket that entails the consumer price index and consequently inflation. Therefore, if In-House brands continue being sourced through the existing terms of trade, the Family brand will eventually exit the market through foreclosure. This would be contrary to the Government's strategic goals that are aimed at stimulating local manufacturing. Some form of regulation (for example Capping of In-House brands) can be adopted subject to time restrictions

[19]A margin squeeze occurs when there is such a narrow margin between an integrated provider's price for selling essential inputs to a rival and its downstream price that the rival cannot survive or effectively compete. http://www.oecd.org/regreform/sectors/46048803.pdf

and considerations in order that allow that the primary stage (Manufacturing) is given a fair chance or an opportunity to strengthen. Allowing manufacturers of local FMCG products to be foreclosed in favour of In-House brands may not be a good thing to the economic growth. There is no guarantee that retail stores will produce these massive In-House volumes locally. They (retail stores) may opt to source from more mature markets (regionally) in order to lower costs after local millers exit.

8.0 Conclusion

In assessing competition issues in a Fast Moving Consumer Goods Market (FMCG), where price is a key determinant of demand and supply, the analysis was done to probe for possible anti-competitive issues that In-House brands may pose on competition.

It is important to note that millers produce both Family and In-House brands at the same cost and quality, but ultimately retail stores acquire and generally resell In-House brands at cheaper prices, and this is due to explicit terms of trade by retailers that dictate a lower charge on In-House brands compared to Family brands. Admittedly, many factors may contribute to the eventual shelf price in retail stores, but the leverage that retail stores have in terms of retailer and bargaining power is to be considered as a possible avenue to anti-competitive behaviour. Retail stores also receive trade rebates on both Family and In-House brands and have the discretion to return unsold Family brands products citing consumer preference. This may disadvantage manufacturers as they have no say in terms of shelf-space, volumes demanded or product mix. Whether it is intentional positioning or market forces at play, retail stores have influence and the opportunity to utilise their dominant position (within the defined relevant market) in unscrupulous manners and therefore monitoring is warranted.

9.0 Recommendations

Although no direct infringements of competition law arose, some indicators of possibly exploitable avenues in light of the prevalent terms of trade in this sector warrant the following recommendations:

Possible exploitable avenues	Recommendations	Responsibility
Abuse of Dominance where the most likely practices would be: • Margin Squeeze; • Dictated pricing/ Vertical price fixing; • Foreclosure; • Barriers to entry	• The prevalent terms of trade have the potential to create a conducive environment for anti-competitive behaviour. Therefore, an investigation into the contractual agreements facilitating the manufacturing of In-House brands to ascertain their effect on competition should be carried out. • There is a need for an in-depth analysis of margin squeeze, dictated pricing/vertical price fixing, foreclosure and barrier to entry. Because of the technical complexity and time needed to prove these conducts, as well as dealing with well – resourced retailers who always try to outsmart competition law, this exercise will need to be resourced well with technical expertise in order to assess the various conducts. • Should there be no effects after assessment of competition issues, the Authority will consider approaching the Competition Commission with a remedy to cap shelve space on In-House brands against family brands on certain commodity products as this will allow consumers to have choice at all times. This will also allow local millers and producers to grow and be able to compete with import products.	Competition Authority
Vertical or horizontal integration of retail stores.	• Vertical or horizontal integration of retail stores should be monitored to further control the leverage retail stores have over manufacturers.	Competition Authority