

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 2219

1 July 2022

COMPETITION COMMISSION SOUTH AFRICA

NOTICE IN TERMS OF SECTION 10(6) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED): INDEPENDENT PRACTITIONERS ASSOCIATION FOUNDATION NPC

1. Notice is hereby given in terms of section 10(6)(a) of the Competition Act, No. 89 of 1998, as amended ("the Competition Act") that, the Independent Practitioners' Association Foundation ("IPAF") and its members, hereinafter jointly referred to as ("the Applicants") has applied to the Competition Commission ("the Commission") for an exemption in terms of Sections 10(3)(b)(ii) and 10(3)(b)(v) of the Competition Act.
2. On 07 April 2022, the IPAF filed for an exemption in terms of section 10(1) of the Competition Act which allows a firm to apply to the Commission to exempt an agreement, a practice and/or a category of agreements from the provisions of Chapter 2 of the Competition the Act.
3. The IPAF is a non-profit company registered with the Companies and Intellectual Property Commission under registration number 2009/001513/08. The 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.
4. 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. The IPAF's principal place of business is 1st Floor, Gateway West, 22 Magwa Crescent, Waterfall, Johannesburg 2066.
5. Membership of IPAF and its members is open to any General Practitioner ("GP") qualified as such and in good professional standing with the Health Professions Council of South Africa.
6. In its exemption application, IPAF relies on the objectives set out in:
 - 6.1. Section 10(3)(b)(ii) of the Competition Act, which allows for the promotion of the effective entry into, participation in or expansion within a market by small and medium businesses, or firms controlled or owned by historically disadvantaged persons; and

- 6.2. Section 10(3)(b)(v) of the Competition Act, which allows the competitiveness and efficiency gains that promote employment or industrial expansion.
7. IPAF submits that by allowing this exemption, there will be no foreclosure of any competitor to IPAF or any IPA member and that the granting of this exemption will not disturb the balance of power with regards to medical schemes vis-a-vis IPAF.
8. The exemption application covers the following practices by IPAF and its members:
 - 8.1. 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;
 - 8.2. Global fee negotiations with medical schemes; medical scheme administrators; the state and/or other healthcare providers; and
 - 8.3. To undertake collective or centralized procurement on behalf of IPAF members; and
 - 8.4. Negotiating the terms and conditions relating to agreements which fall within the scope of paragraphs 8.1- 8.3 above with the respective parties.
9. IPAF doctor members are competitors or potential competitors in the market for GP services. Accordingly, the above conduct(s) may constitute a prohibited practice and contravention of Section 4(1)(b)(i) of the Competition Act which is a per se contravention of the Act and therefore incapable of being defended on efficiency, technological or pro-competitive grounds.
10. IPAF submits that the conduct is necessary to achieve the objectives under Sections 10(3)(b)(ii) and 10(3)(b)(v) of the Competition Act. It is imperative in fact that the exemption be granted so as to allow IPA doctor members to compete with corporate providers of GP networks like Medicross and Intercare and also to avail GPs with countervailing power vis-à-vis medical schemes and administrators. IPAF submits that an exemption if granted by the Commission would allow new GP's who wish to set up independent practice with an ease of entry to the market. This will promote entrepreneurship and in turn encourage historically disadvantaged individuals to enter private practice and own and establish black owned independent general practitioner practices. This in turn will stimulate employment and build a more robust and competitive GP practice market.

11. IPAF is requesting the Commission to grant it an exemption of 5 (five) years from date of the Commission's decision.
12. Notice is hereby given in terms of section 10(6)(b) of the Competition Act to allow interested parties twenty (20) business days from the date of the publication of this notice to make written representations to the Commission as to why the exemption should, or should not, be granted.
13. All representations, queries and submissions must be directed to:

Ms Priya Reddy / Mr Tlabo Mabye

Competition Commission South Africa

Market Conduct Division

Private Bag X23

Lynnwood Ridge

0040

or by email: TlaboM@compcom.co.za / PriyaR@compcom.co.za

In correspondence kindly refer to the following case number: 2022Apr0022