

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 4125

1 December 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 BY THE NATIONAL HOSPITAL
NETWORK - 2023SEP0040

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 National Hospital Network ("**NHN**") 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 exemption requested is for a period of five (5) years.
2. The NHN is a non-profit company registered in terms of the Companies Act, 2008, comprising of a group of independent member private hospitals through which it is controlled. In the NHN's context, independent relates to membership in the NHN that is limited to private hospitals which are not 'owned' or 'controlled' by any of the big three (3) hospital groups consisting of Mediclinic Southern Africa, the Netcare Hospital Group, and Life Healthcare.
3. The NHN was established as a response to the competition imbalance between the independent private hospital market on the one hand, and the three large hospital groups on the other. This is the fifth exemption application since the first exemption was granted by the Commission on 15 June 2006.
4. The NHN requests an exemption to engage in the following activities on behalf of its members with medical schemes and/or medical scheme administrators:
 - 4.1. NHN's members shall agree collectively to implement the prices negotiated and entered into on their behalf by the NHN with medical schemes and medical scheme administrators;

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- 4.2. Promote the interests of its members and to market their services and also to provide a base for benchmarking which would help NHN members to increase efficiencies;
 - 4.3. Engage on behalf of its members in global fee negotiations with medical schemes, administrators, the State and healthcare providers (professional associations); and
 - 4.4. To undertake collective or centralised procurement on behalf of its members.
 5. The NHN is of the view that the exemption sought will achieve the following objectives:
 - 5.1. Promote the effective entry, participation or expansion of small and medium businesses, or firms controlled or owned by historically disadvantaged persons in line with section 10(3)(b)(i) of the Act; and/or
 - 5.2. Achieve competitiveness and efficiency gains that promote employment or industrial expansion in line with section 10(3)(b)(i) of the Act.
 6. The NHN submits that there is a need for a further exemption because large hospital groups assume group administration responsibility for the centralised performance of certain functions and operations of their group hospitals, such as:
 - (i) tariff negotiations with medical schemes; (ii) collation of group hospital data; (iii) group-wide initiatives to promote efficiency, quality of healthcare, and funding; and (iv) the maintenance of standards, and training. To this end, independent private hospitals on their own lack the resources and capability to give effect to what is required to be competitive.
 7. 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. Such representations must be directed to:

Dr Thabang Ndlovu

Competition Commission

Market Conduct Division

Email: ThabangN@compcom.co.za

Mr Tlabo Mabye

Competition Commission

Market Conduct Division

Email: TlaboM@compcom.co.za

8. Kindly make use of the following case number when sending correspondence in relation to this notice: Case No: **2023SEP0040**.