



**competitioncommission**  
*south africa*

**NOTICE TO STAKEHOLDERS**

**11 SEPTEMBER 2020**

**HEALTH MARKET INQUIRY RECOMMENDATIONS:**

**COLLECTIVE NEGOTIATIONS BY MEDICAL SCHEME ADMINISTRATORS,  
MULTILATERAL TARIFF NEGOTIATION FORUM AND OUTCOMES MONITORING AND  
REPORTING**

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Dear Stakeholder,

1. The Competition Commission (the Commission) has recently received several queries from stakeholders, seeking clarity on the status of the Health Market Inquiry (HMI) findings and recommendations.
2. In particular, stakeholders requested clarity regarding the implementation of three key recommendations of the HMI, i.e. (1) Negotiations by administrators on behalf of multiple restricted schemes and (2) Multilateral tariff negotiation framework between Funders (administrators and medical schemes) and Practitioners, and (3) Outcomes Monitoring and Reporting.
3. This notice seeks to clarify the Commission's position on the implementation of the above three recommendations.

## **Background**

4. The HMI completed its work with the final findings and recommendations report published and officially handed over to the Commission and Minister of Trade, Industry and Competition on 30 September 2019.
5. The HMI identified features that alone or in combination, prevent, restrict or distort competition. The HMI found that the private health market is characterised by highly concentrated funders and facilities markets, disempowered and uninformed consumers, a general absence of value-based purchasing, practitioners who are subject to little regulation and failures of accountability at many levels.
6. A more competitive private healthcare market will translate into lower costs and prices, more value-for-money for consumers and should promote innovation in the delivery and funding of healthcare. As the state becomes a purchaser of services from the private sector through the National Health Insurance, it should be able to enter a market where specific interventions have already led to greater competition and efficiency.

## **Collective negotiations by Medical scheme Administrators**

7. The HMI made several recommendations which are designed to promote systemic changes to improve the context within which health facilities, funders, and practitioners operate, and create a shift towards a pro-competitive environment.
8. Amongst others, the HMI made recommendations which seek to address a long-standing issue around collective bargaining by medical scheme administrators on behalf of restricted schemes under their administration.
9. This follows the HMI findings regarding the extent of competition between open and restricted schemes. The HMI report determined that, open and restricted schemes primarily compete in separate markets, while also acknowledging that some minimal competition for the same consumers may occasionally take place. However, the HMI concluded that these two are in separate markets. The HMI further indicated that, restricted schemes do not compete with other restricted schemes, while open schemes do compete with other schemes.

10. Therefore, to level the playing field between administrators, the Commission therefore confirms that, as recommended by the HMI, an administrator may collectively negotiate for **multiple restricted schemes**, and at most a **single open scheme**.<sup>1</sup>

11. What this means for administrators is that such collective negotiations may take place with immediate effect without the fear of falling foul of the Competition Act of 1998, as amended.

### **Multilateral Tariff Negotiation Forum between Funders and Practitioner**

12. The HMI made a recommendation that a multilateral forum be constituted by representatives of practitioners, funders, government and civil society, through a forum to be governed by the recommended Supply-Side Regulator for Health, or in the interim the Council for Medical Scheme (the CMS).<sup>2</sup>

13. The multilateral negotiating forum will develop a negotiation framework to set maximum tariffs for Prescribed Minimum Benefits (PMBs) and reference tariff list for non-PMBs.

14. The Commission confirms that it has commenced engagements with the CMS in this regard to establish a multi-stakeholder working committee that will work towards developing the negotiation framework. The Commission will in due course provide an update after the necessary consultations with the Department of Health and the relevant stakeholders.

### **Outcomes Monitoring and Reporting**

15. The HMI found that a key competition challenge in the health system is the absence of reliable and available information on health outcomes. Such information is important as it would allow patients to compare and select providers and would improve the ability of healthcare funders to compare costs and quality on the value for money when contracting with providers.<sup>3</sup>

16. In this regard, the HMI recommended that an independent, non-for-profit collaborative organisation, Outcomes Monitoring and Reporting Organisation (OMRO) be established with representation from various stakeholders.

17. The HMI recommended a staged process, which should commence through voluntary participations using existing forums, including the Health Quality Assurance (HQA), which

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<sup>1</sup> HMI Report, Chapter 7 – Bargaining and Tariff Determination, pg 195.

<sup>2</sup> HMI Report, Chapter 7 – Bargaining and Tariff Determination, pg 181.

<sup>3</sup> HMI Report, Chapter 8 – Healthcare Data, Quality and Outcomes, pg 198 - 208

would set the basis for an organisation that would ultimately interface with the proposed Supply Side Regulator of Health.

18. In this regard, the Commission has commenced discussions with the HQA as well as the CMS to enable implementation of an outcomes monitoring and reporting framework in line with the above recommendation. The HMI will thus issue an update to stakeholders as soon as these engagements have progressed.

19. For further details, contact Ms Mapato Ramokgopa, Divisional Manager – Office of the Commissioner at 0834710261 or [MapatoR@compcom.co.za](mailto:MapatoR@compcom.co.za) and Mr Siyabulela Makunga, Head of Communications 0727680238 or [SiyabulelaM@compcom.co.za](mailto:SiyabulelaM@compcom.co.za)