

MEDIA RELEASE

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THE COMPETITION COMMISSION CONCLUDES THE PHARMACEUTICAL MARKET STUDY AND PUBLISHES ITS FINAL REPORT ON THE CONDITIONS OF COMPETITION IN THE SECTOR

The pharmaceutical market study was carried out pursuant to Section 30 of the Competition Act 2007 (the “Act”), which provides that the Executive Director of the Competition Commission (‘the Executive Director’) shall undertake general studies on the effectiveness of competition in individual sectors of the economy in Mauritius.

The primary objective of the study was to review and publicise the conditions of competition within the pharmaceutical sector, such as the market structure and concentration along the pharmaceutical supply chain, the process for the registration and commercialisation of pharmaceutical products, licensing of operators across the supply chain, and pricing of pharmaceutical products. Also, the market review was intended to identify potential hurdles to competition across the pharmaceutical supply chain and to come up with recommendations to address same.

The Competition Commission has released the final report of the market study of the pharmaceutical sector in Mauritius. The final report takes into consideration the submissions of the various stakeholders, including ministries and government agencies, industry and consumer associations and market operators, on a preliminary report issued for consultation in September 2020. These submissions were extensive and wide ranging with some issues not directly relevant to competition and thus not falling under the purview of the Competition Commission. Nevertheless, we have reproduced all submissions for which consents for disclosure have been obtained, for the benefit of the stakeholders.

The majority of pharmaceutical products available in both public and private channels of distribution are imported and supplied by some 40 registered wholesale pharmacies. These are the only entities, in addition to Government, that are allowed to import pharmaceutical products for distribution to retail pharmacies and healthcare institutions. In the public sector, pharmaceutical products are distributed at various public healthcare institutions while in the private channel of distribution, they are dispensed at 354 retail pharmacies and private healthcare institutions across the island.

The main concerns identified in the review of the overarching regulatory framework that caters for the supply of pharmaceutical products in Mauritius are summarised below:

- i. Lack of transparency in the registration process since the guidelines of the Pharmacy Board on the process are not publicly available. This has the potential effects of undermining the certainty and predictability of the registration process and thus, entry of new products.
- ii. Potential situation of perceived conflict of interest given that the Pharmacy Board and its Trade and Therapeutic Committee could comprise of private pharmacists involved in the wholesale pharmacy business. This insinuates that these private pharmacists can form part of the decision-making process which could involve their own products and that of competitors.
- iii. The current pricing mechanism may be resulting in high prices of pharmaceutical products. The prices of pharmaceutical products are based on a maximum mark-up system implying that the higher the cost price of medicines, the higher is the quantum of mark-up and consequently price of pharmaceutical products to end-users.
- iv. The current intellectual property (IP) regime could be a source of prevention of competition in the supply of pharmaceutical products. As is the case for all other registered trademarks, the consent of the owners is required for importing pharmaceutical products in Mauritius.

The study has come up with proposals to address the competition concerns identified, which are broadly in relation to implementation of industry best practices to promote transparency and good governance; an alternative pricing mechanism to ensure affordability; and regulatory reforms to the IP regime to foster intra-brand competition. Amongst the proposals are:

- i. Guidelines of the Pharmacy Board on the registration process to be made publicly available.
- ii. The composition of the Pharmacy Board and its sub-Committees to be done in such a manner that minimises such perceived and actual conflicts of interest.
- iii. An assessment of the feasibility of introducing the regressive mark-up system to address the pricing issue.
- iv. An assessment of the intellectual property regime for opening up competition in the market for the supply of pharmaceutical products, in particular an evaluation of the benefits against the potential harm in the market. This assessment is also likely to be relevant for other products which are protected under the current IP regime.

The final report of the market study of the Commission can be accessed from the following link:

[Link to the Final Report of the Market Study](#)

Mr. Deshmuk Kowlessur, Executive Director of the Competition Commission, said

“Pharmaceutical products are critical in the treatment of diseases and thus an integral part of healthcare services. It is imperative to ensure the safety and efficacy of products available in both public and private channels of distribution. At the same time, the issue of affordability must be taken into consideration to ensure access to such essential products. It is to be highlighted that around eighty percent of the total of Rs 5 billion estimated current expenditure on pharmaceutical products is met from out-of-pocket by end-users.

While there are valid justifications for the regulation of the supply of pharmaceutical products in terms of entry and pricing, the regulatory framework should be conducive to competition among the various operators. This would contribute to ensuring that adequate products are available at competitive prices to the benefit of consumers. It is equally important that prescription patterns are in the best interest of users in terms of efficacy but also costs. To the extent possible, cheaper but as effective options available on the local market should be encouraged.

This market study is part of the ongoing efforts of the Competition Commission to promote market competition for the benefit of consumers and the economy at large. It highlights the importance of greater process transparency and disclosure of information for operators to compete on level playing field. The report also provides a basis to evaluate regulatory reforms in terms of pricing mechanism and import regime in relation to supply of pharmaceutical products in Mauritius.”

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