

MEDIA RELEASE

Investigation Ref

INV072

Date

22/07/2024

The Competition Commission investigates potential exclusivity arrangements put in place by TNS Tobacco Company Limited in the distribution of cigarettes.

The Competition Commission has launched an investigation into potential exclusivity arrangements put in place by TNS Tobacco Company Limited (“TNS Tobacco”) in relation to the distribution of cigarettes.

TNS Tobacco is an importer and distributor of cigarettes in Mauritius, distributing British American Tobacco Plc’s brands of cigarettes. It appears at this stage that TNS Tobacco may have significant market shares in the importation and distribution of cigarettes in Mauritius and Rodrigues.

The Executive Director of the Competition Commission has reasonable grounds to believe that TNS Tobacco may be in a monopoly situation within the meaning of the Competition Act 2007 and may have put in place exclusivity arrangements in relation to the distribution of cigarettes, which may have the object or effect of preventing, restricting or distorting competition. In particular, the Executive Director is concerned that TNS Tobacco’s sub-distributors are not allowed to:

- (i) distribute other brands of cigarettes or related products,
- (ii) distribute cigarettes in other regions than that allocated to them, and
- (iii) sell for a period of one year after termination of the agreement, any competing products.

The sub-distributor agreements may also contain a target setting mechanism which may have exclusivity effects.

It is to be noted that the cigarettes market in Mauritius is highly regulated with various regulatory requirements and restrictions. The Executive Director is concerned that the abovementioned arrangements may be distorting competition in the supply of cigarettes by softening competition among the sub-distributors of TNS Tobacco and may make entry and expansion of competitors more difficult in a market where entry is already complex.

This is merely the start of the investigation, and no conclusion has been reached at this stage. It may happen that during the investigation it is found that there is no restrictive business practice, in which case the matter will be closed with no further action. In the event there are findings of restrictive

business practices, then the Commission is empowered under the Competition Act to impose directions to remedy the situation and its effects.

Statement of the Executive Director, Mr. Deshmuk Kowlessur

“While we do not promote or encourage the consumption of cigarettes, as a competition authority we have to ensure that the process of competition is not hindered in any market. Competition is important to ensure that consumers get the best prices, quality, services and choice.

The strong brand loyalty and regulatory policies in the supply of cigarettes makes it very challenging for new entrants to enter the market and for smaller players to expand. Entry and expansion are important elements of market dynamism fostering competition.

While exclusivity arrangements between suppliers and resellers are not in themselves an abuse, in some circumstances, such arrangements may result in anti-competitive foreclosure and hinder the process of competition; more so when put in place by players in dominant position. Given that TNS Tobacco is a major player on the market, we have to assess whether such arrangements may distort competition; and if so to take appropriate actions, including those to restore the process of competition. It is only after completion of the investigation that firm conclusions can be drawn.”

We hereby invite the views of interested parties, and all parties in disposal of data, documents or any other relevant information that might highlight the possible effects of such exclusivity arrangements on the state of competition in any market in Mauritius (including Rodrigues) to submit same to the Competition Commission either by post or by email, as follows:

The Executive Director
Competition Commission
10th Floor, Hennessy Court, Pope Hennessy St.
Port Louis
Email: info@competitioncommission.mu

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