

GRMI recommendations implementation period extended by 3 months

In light of the Covid-19 pandemic and national lockdown, the Grocery Retail Market Inquiry (GRMI) and the Department of Trade, Industry and Competition (DTIC) have agreed to extend the period for lease engagement and agreement-reaching thereof, in respect of all GRMI's recommendations, by three months, until 28 August 2020.



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On 25 November 2019, the GRMI published its final report on findings and recommendations (Final Report).

The GRMI recommended that for a period of six months from the publication of the Final Report:

- National supermarket chains must conclude agreements with the Competition Commission to cease the enforcement of exclusivity provisions (and clauses with a substantially similar effect) in long-term lease agreements;

- Suppliers of grocery and household goods, through a facilitator appointed by the Minister of the DTIC, must commit themselves, in the form of a code of conduct, to ensure equal treatment (especially in respect of the granting of rebates) of

retail and wholesale customers; and

- Retail property landlords, through a facilitator appointed by the Minister of the DTIC, must commit themselves, in the form of a code of conduct, to ensure equal treatment of tenants.



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27 Nov 2019



In addition to the above, the GRMI made several recommendations to government in respect of necessary changes to regulations and the development of a competitiveness support package aimed at assisting small and independent grocery retailers.

However, the Competition Commission notes that the Covid-19 pandemic and national lockdown have had a material impact on the South African economy and the retail sector in particular. The commission therefore points out that this has necessitated a concerted focus by government and business to coordinate a response to the pandemic and ensure that the negative impact on the economy is reduced.

As such, there has been a redirection of focus away from the implementation of the GRMI's recommendations by both the CCSA and the appointed DTIC facilitator. This has resulted in a reduced likelihood that the deadline recommended by the GRMI, in respect of all recommendations other than that of exclusive leases, will be met.



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Angelo Tzarevski, Ryan McKerrow and Kirsty Gibson 27 Nov 2019



Although, the CCSA notes that significant progress has been made around ending exclusive leases, it also points out that restrictions on movement as a result of Covid-19 have only exacerbated the detrimental competitive effects of such leases.

In addition, the CCSA says restrictions on new tenants, especially speciality stores, are likely to undermine efforts to rebuild the economy by denying business opportunities for small business and tenants for the retail property sector. The deadline for these recommendations remains 28 May 2020.

In granting this extension, the Commission and DTIC facilitator have agreed that engagements will continue during this period in order to ensure that any restructuring that may occur in the context of responding to the Covid-19 pandemic also takes into account the recommendations of the GRMI, with a view to ensuring that these are implemented.

The extension is granted for a period of three months, ending 28 August 2020.