

# Mustek sent packing as competition body clears HP

By [Thabiso Mochiko](#)

1 Mar 2011

The Competition Commission has thrown out a complaint by local computer maker and distributor Mustek against its international rival Hewlett Packard (HP), because it could not find evidence of anticompetitive behaviour by the US company.

## No referral

The ruling is a blow to JSE-listed Mustek, which was seeking protection from the competition authorities as it believed its action was taken in the interest of free and fair trade. The commission said it would not refer the matter to the Competition Tribunal.

Mustek MD Hein Engelbrecht said Monday, 28 February 2011, that although the company was "slightly disappointed" by the findings, it respected them and would not pursue the matter.

"It is business as usual for us. But we will continue to monitor HP's market behaviour," he said.

The company would continue to compete aggressively with HP and other international companies.

Hedy Gorton, public relations manager for HP SA's Enterprise Business, said HP "was in no doubt we were operating within the confines of anticompetitive guidelines and we are pleased to put this issue to rest".

In 2009, Mustek filed a complaint against HP accusing it of flouting five sections of the Competition Act, including engaging in price discrimination, selling goods below their marginal cost and inducing customers not to deal with its rivals.

## Discounts

The commission found HP granted wholesalers and retailers certain rebates, promotional discounts and incentive payments related to achieving certain sales targets.

According to the commission, HP sometimes negotiates prices with its resellers. This tends to have the effect of maintaining a maximum rather than a minimum resale price, a practice which has generally been viewed favourably by the competition authorities.

As a result, the commission established there was no evidence to suggest HP's retailers did not discount over and above

the rebates and incentives they received.

"HP does not monitor what these rebates are used for, and wholesalers and retailers are able to set their prices independently of HP," the commission said.

The commission could also not establish that HP was dominant in the local personal computer market. HP's share of the market - desktops or laptops - did not exceed 45% and there was no evidence to suggest that HP possessed market power.

"The personal computer market in SA appears to be competitive, as it is globally, with no single vendor possessing the power to sustain small but significant price increases for any length of time," the commission said. It said the market shares of companies in the personal computer market varied significantly over time.

## **Partner programme**

The commission could also not prove that HP was involved in price discrimination. It found that HP's preferred partner programme was open to any wholesaler meeting its requirements.

"It is unlikely that HP's preferred partner requirements will lead to substantial lessening of competition in the market for personal computers," it said.

Mustek last month reported a 12% increase in profit for the six months ended 31 December 2010.

A stronger average exchange rate of R7,09/ compared with R7,63/ in the six months to December 2009 restricted revenue growth, with revenue rising 1,4% to R1,62bn, but profit rose 12% to R41m.

*Source: Business Day*

For more, visit: <https://www.bizcommunity.com>