



# **PRESS RELEASE**

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## **RECENT DECISIONS BY THE BOARD OF COMMISSIONERS OF THE COMPETITION AND FAIR TRADING COMMISSION**

The Board of Commissioners of the Competition and Fair Trading Commission (CFTC) held an Extra Ordinary Board Meeting in Lilongwe on 24<sup>th</sup> April 2020, to consider and adjudicate over cases. Specifically, the meeting was convened to deliberate on cases of alleged unfair trading practices in relation to the supply of essential protective and preventive equipment used in the management of the global COVID-19 pandemic.

In total, the Commission considered and adjudicated over a total of 16 cases. During the meeting, the Board imposed fines to eight pharmacy shops for unconscionable conduct, specifically excessive pricing, which is against Section 43(1) (g) of the Competition and Fair Trading Act (CFTA).

This statement provides a summary of the Commission's determinations on some of the cases. For more information, contact Innocent Helema on 0880725075 or email [innocent.helema@cftc.mw](mailto:innocent.helema@cftc.mw)

**JAMES KAPHALE**

**EXECUTIVE DIRECTOR**

## INFORMATION AND RELEVANT BACKGROUND

- 1.1 In March 2020, the Commission received information indicating that there were some unscrupulous traders and companies that were taking advantage of the global Coronavirus pandemic to engage in unfair trading practices. Examples of such practices included the following:
- (a) Deceptive conduct whereby some products were being promoted or marketed as a cure for COVID-19 and yet, according to World Health Organisation, there was no medically tested and approved product which could cure the disease.
  - (b) Unconscionable conduct through excessive pricing or unjustifiable price increases.
- 1.2 In view of this, the CFTC Secretariat issued a Public Notice on 18<sup>th</sup> March 2020 advising the public that it was an offence, under the Competition and Fair Trading Act (CFTA) and Consumer Protection Act (CPA), for any business person to engage in deceptive or unconscionable conduct. The Secretariat also appealed to consumers to observe laid down health rules including washing hands and reducing unnecessary travel as ways of mitigating the spread of the Corona Virus. **See Annex 1 for the Public Notice**
- 1.3 From 20-23<sup>rd</sup> March 2020, the Secretariat carried out an inspection of pharmaceutical companies and supermarkets to check compliance with the CFTA and CPA in the marketing and supply of essential personal protective equipment and supplies<sup>1</sup> used in the management of COVID-19. During the inspection, the Secretariat collected pricing information, with a view to investigating the level of price adjustment pre-COVID-19 outbreak and post COVID-19 outbreak.
- 1.4 Merchants or pharmaceutical companies that were suspected to have unfairly increased their prices to unconscionable levels were issued with interim cease and

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<sup>1</sup> Hand sanitisers, Gloves, Face Masks, thermometers, Vitamin C, Aspirin, Chloroquine etc

desist orders. On 24<sup>th</sup> April 2020, the Board of Commissioners of the Competition and Fair Trading Commission (CFTC) held an Extra Ordinary Board Meeting in Lilongwe, to consider and adjudicate over cases of alleged unfair trading practices in relation to the supply of essential personal protective equipment and supplies used in the prevention of COVID-19. The decisions of the Board of Commissioners are summarised below:

## **SUMMARY OF THE COMMISSION'S DETERMINATIONS OF THE CASES**

### **1. Maula Pharmacy fined K2 million for excessively pricing N95 face masks**

The Commission imposed a fine of MK2 million to Maula Pharmacy Ltd for excessively pricing N95 face masks and also made an order to issue a warning to Maula Pharmacy for failure to furnish CFTC with information as required.

An inspection conducted on 21<sup>st</sup> March 2020 by the CFTC Secretariat showed that Maula Pharmacy Ltd in Lilongwe were charging MK3,500 for N95 face masks whose benchmark price was around MK750 representing an estimated margin of 367%. The trader was issued an interim cease and desist order, which required them to provide written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

Maula Pharmacy neither formally responded to the interim cease and desist order nor reduced their prices, as confirmed during a follow up inspection conducted on 16<sup>th</sup> April 2020.

During an inspection on 16<sup>th</sup> April 2020, the trader provided false information to the CFTC, claiming that the masks were supplied at a higher price. However, the supplier disputed the claims stating that the items were supplied to Maula Pharmacy at a price of MK750.

## **2. MaxiCare Pharmacy fined K2 million for excessively pricing hand sanitisers**

The Commission imposed a fine of K2 million fine to MaxiCare Pharmacy for excessively pricing 400ml Romeo hand sanitisers and also made an order to issue a warning to the respondent for failure to furnish the Commission with information as required.

An inspection conducted on 21<sup>st</sup> March 2020 by the CFTC Secretariat showed that MaxiCare Pharmacy in Lilongwe were charging MK14,500 for 400ml Romeo hand sanitisers whose benchmark price was around MK5,000; representing an estimated margin of 190%. The trader was issued an interim cease and desist order, which required them to provide a written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

The respondent neither formally responded nor reduced their prices.

## **3. Excel Pharmacy fined K2 million for excessively pricing N95 face masks and Gloves**

The Commission imposed a fine of MK2 million to Excel Pharmacy for excessively pricing N95 face masks and also made an order to issue a warning to the respondent for failure to furnish the Commission with information as required.

An inspection conducted on 23<sup>rd</sup> March 2020 by the CFTC Secretariat, showed that Excel Pharmacy located in Blantyre were charging MK3,000 for N95 Face Masks whose benchmark price was around MK750 representing an estimated margin of 367%. The trader was issued an interim cease and desist order, which required them to provide written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

The trader neither formally responded to the interim cease and desist order nor reduced their prices, as confirmed during a follow up inspection conducted on 21<sup>st</sup> April 2020.

## **4. City Pharmacy fined K750 000 for excessively pricing hand sanitisers**

The Commission imposed a fine of MK750,000 to the respondent for excessively pricing 400ml Romeo hand sanitisers and also made an order to issue a warning to the respondent for failure to furnish the Commission with information as required.

An inspection conducted on 21<sup>st</sup> March 2020 by the CFTC Secretariat showed that City Pharmacy located at City Mall in Lilongwe were charging MK12,000 for 400ml Romeo hand sanitisers whose benchmark price was around MK5,000; representing an estimated margin of 140%. The trader was issued an interim cease and desist order, which required them to provide a written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

City Pharmacy neither formally responded to the interim cease and desist order nor reduced their prices, as confirmed during a follow up inspection conducted on 16<sup>th</sup> April 2020.

#### **5. Pharmaworld Pharmacy fined K750 000 for excessively pricing gloves**

The Commission imposed a fine of MK750,000 to the Respondent for excessively pricing gloves.

An inspection conducted on 23<sup>rd</sup> March 2020 by the CFTC Secretariat, showed that Pharmaworld Pharmacy were charging MK120 for gloves against a benchmark price of MK46, representing an estimated margin of 160%. The trader was issued an interim cease and desist order, which required them to provide written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

Pharmaworld Pharmacy responded in writing, enclosing supporting receipts to demonstrate that the pricing was not excessive. However, an analysis of the receipts showed that the trader was selling the gloves at MK120 against a benchmark price of MK46.

#### **6. Pharmalife Pharmacy fined K750 000 for excessively pricing hand sanitisers, N95 face masks and Gloves**

The Commission imposed a fine of MK750,000 to Pharmalife for excessively pricing 400 ml Romeo hand sanitisers, gloves and facemasks. The Board also made an order to issue a warning to the respondent for failure to furnish the Commission with information as required.

An inspection conducted on 21<sup>st</sup> March 2020 by the CFTC Secretariat showed that Pharmalife Pharmacy in Lilongwe were charging the following:

- MK200 per pair for gloves whose benchmark price was MK70 representing an estimate margin of 186%.
- MK12,000 for 400 ml Romeo Hand sanitisers whose benchmark price was around MK5,000; representing an estimated margin of 140%.
- MK2,000 for N95 facemasks whose benchmark price was MK750 representing an estimated margin of 166%.

The trader was issued an interim cease and desist order, which required them to provide a written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

The trader neither formally responded to the interim cease and desist order nor reduced their prices, as confirmed during a follow up inspection conducted on 9<sup>th</sup> April 2020.

#### **7. Lifestyle Pharmacy fined K500 000 for excessive pricing hand sanitisers**

The Commission imposed a fine of MK500,000 to Lifestyle for excessively pricing 400 ml Romeo hand sanitisers and also made an order to issue a warning to the respondent for failure to furnish the Commission with information as required.

An inspection conducted on 21<sup>st</sup> March 2020 by the CFTC Secretariat showed that Lifestyle Pharmacy in Lilongwe were charging MK10,000 for 400 ml Romeo hand sanitisers whose benchmark price was around MK5,000; representing a 100% margin. The trader was issued an interim cease and desist order, which required them to provide

written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

The trader neither formally responded to the interim cease and desist order nor reduced their prices, as confirmed during a follow up inspection conducted on 20<sup>th</sup> April 2020.

#### **8. CNC Health fined K500 000 for excessively pricing gloves**

The Commission imposed a fine of MK500,000 to CNC Health for excessive pricing in the supply of 400ml Romeo hand sanitisers, gloves and facemasks and also made an order to issue a warning to the respondent for failure to furnish the Commission with information as required.

An inspection conducted on 21<sup>st</sup> March 2020 showed that CNC Health of Gateway Mall Complex were charging MK7,500 for gloves against a benchmark price of MK3,000 representing an estimated margin of 150%.

The trader was issued an interim cease and desist order, which required them to provide a written justification for the price which was suspected to be excessive and an infringement of Section 43(1)(g) of the CFTA.

The trader neither formally responded to the interim cease and desist order nor reduced their prices. As a matter of fact, during the follow up inspection conducted on 20<sup>th</sup> April 2020, the trader raised their prices from MK7,500 to MK8,000 representing an estimated margin of 160%.