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Alleged restrictive business practise in Human Health and Social Work Sector

Case Number: FCA 54

Date: FEBRUARY 2015

Complaint: On the 6th of May 2014, the Ministry of Health filed a complaint against HACH Company Loveland (“HACH”) of the USA, a supplier of medical supplies, regarding their conduct of market allocation in the supply of laboratory reagents. The origin of the complaint is that Ducray LeNoir (Ducray) of the Mauritius has been appointed as the authorized supplier of the reagents to the Seychelles. The distributor of HACH agents for Seychelles previously fell directly under HACH. The complainant allege that in their previous dealings with Ducray, they faced challenges including delays in delivery of orders and that the costs of their products were on the higher side as compared to sourcing the same from a distributor supplied direct by Hach. The complainant wrote Hach expressing their dissatisfaction with the new business model and requested Hach to resolve the matter considering that Seychelles is a small island state and hence cost of import goods are of concern to the economy. The complainant observed that the new business arrangement by Hach constitute a breach of trust.

Commission’s Assessment: The Fair Trading Commission launched an investigation as per its functions under Section 5 (1) (c) of the Fair Competition Act 2009 (FCA 09) to assess the alleged complaint in order to identify potential breaches of the Act. The Commission proceeded to assess the matter under both Sections 7 and 11 of the Fair Competition on Act, 2009.

Through its investigations, the FTC further liaised with HACH USA and COMESA in order to find possible solutions to this issue. The findings indicated that HACH USA has authorized Ducray Le Noir through a non-exclusive arrangement to be a distributor for the region in order to enhance the local support for the benefit of the end customers.

Furthermore on the 5th February 2015, HACH USA also proposed that in the circumstance that a customer is not satisfied with the service offered by Ducray Le Noir, they can certainly order directly from HACH USA. Therefore, the client can freely choose if they want to source their medical supplies directly with HACH USA or Ducray Le Noir in Mauritius.

Conclusion: In line with the above, the Commission found that no further investigation was required in this case and as the agreement made between HACH USA and Ducray Le Noir did not constitute a breach of the FCA, 09.