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Difficult times require easing of Competition Act



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By BOBEDI SELEKE**Topics** Competition & Antitrust Law | Government, Politics & Policy**02 Aug 2021**

Recently we saw devastating looting and destruction in certain parts of South Africa causing concerns, amongst others, around the supply of essential goods. In response, Minister Ebrahim Patel of the [Department of Trade, Industry and Competition](#) (DTIC) issued Regulations that exempt firms in the value supply chain for essential goods from the application of section 4 and 5 of the [Competition Act](#). These Regulations are also in anticipation of possible ongoing shortages of essential goods as a result of the chaotic aftermath.

Section 4 of the Competition Act prohibits competitors from sharing competitively sensitive information and section 5 prohibits agreements between parties in a vertical relationship that have the effect of substantially lessening or preventing competition.

With these temporary Regulations competitors are permitted to communicate with each other regarding: the loss of stock; the availability of stock and their capacity and the extent of demand for essential goods in different parts of the country.

In addition, firms may coordinate their distribution in relation to the allocation of inputs across producers of essential goods in order to reduce anticipated or actual shortages as well as the distribution of essential goods to different geographic areas and measures that may expand capacity in order to relieve anticipated shortages.

It is important to note that these temporary Regulations do not exempt price fixing and collusive tendering in respect of essential goods nor do they permit any discussions relating to their pricing. Essential suppliers must also notify the DTIC and the Competition Commission of anticipated shortages and possible engagements prior to engaging in the exempted conduct.

The exemption shall remain in operation until 15 August 2021 and may be extended or withdrawn by the Minister. The Regulations will go a long way in ensuring that the public is not subjected to preventable critical shortages of essential goods.

See also:

- [Unrest and looting disaster: Crucial to recover medicines and vaccines](#)
- [Insurance Law: Business insurance policies to rescue businesses amidst the ongoing unrest and looting](#)

- [Block exemption – Essential goods](#)
- [Amended Directive issued by Minister of Employment and Labour](#)

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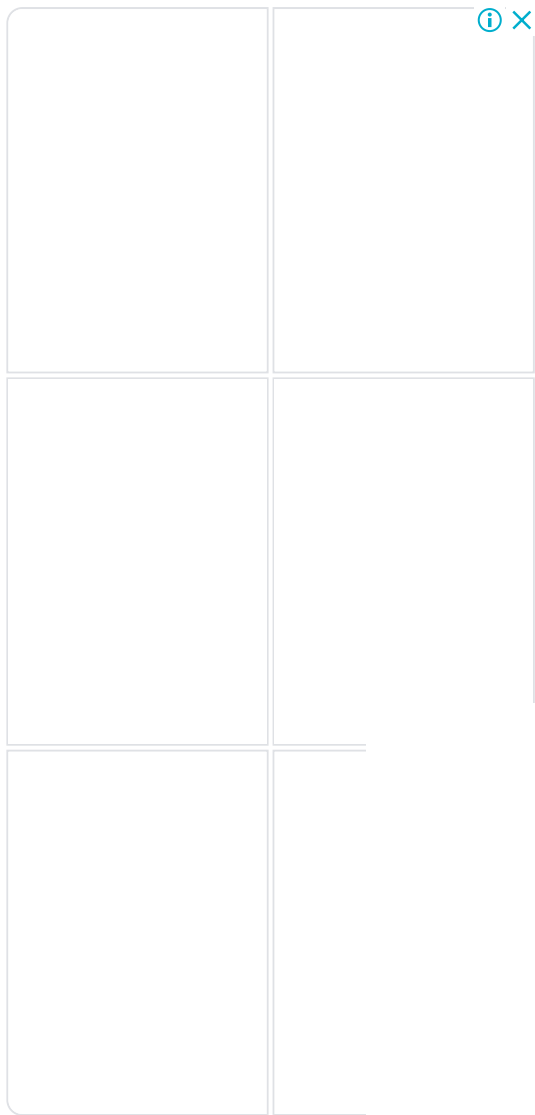
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