

Retailers lose their bid to halt Massmart bringing its exclusivity case

The Competition Tribunal has rejected an application by retailers Shoprite Checkers, Pick n Pay Retailers and Spar Group to delay a hearing into an application brought by Massmart objecting to exclusivity in lease agreements with landlords, with regard to its Game stores.



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The three retailers argued before the Tribunal in July this year that the matter should only be heard after the completion of the inquiry being conducted by the Competition Commission into grocery sector.

Massmart said it wished to enter the fresh grocery products market through its Game store chain but could not do so because of exclusivity agreements between the listed retailers and landlords of shopping malls to prevent another chain from selling fresh grocery products.

Despite ruling that Massmart had a right to bring its case to the Tribunal, the Tribunal gave Massmart 40 business days from 1 September to provide a more substantive affidavit supporting its allegations against the three retailers. The Tribunal said that Massmart had failed to clearly define and allege the material facts concerning the relevant market and the consequence of the anticompetitive effects.

Massmart lodged the case with the Tribunal after receiving notice of non-referral from the Competition Commission on the grounds that it was conducting a market inquiry into the grocery sector. Massmart argues, among other things, that the inquiry will focus more on the small and independent retailers in townships, peri-urban areas, rural areas and the information economy, rather than the likes of Massmart.

Source: *BDpro* via I-Net Bridge

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