

COVID-19 block exemptions under South African competition law

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Abstract

Under South Africa's Competition Act 89 of 1998, exemptions are a mechanism through which otherwise prohibited anti-competitive practices are exempted from the application of the competition law in order to achieve specified objectives, for a specified period of time. This article begins with a discussion of the background motivating the COVID-19 block exemptions. This is followed by a brief examination of the statutory framework that governs exemptions under South African competition law. Thereafter, the article turns its focus to the issue of the COVID-19 block exemptions granted under the Competition Act. This involves an investigation into the manner in which the South African government utilised domestic competition law to deal with a declared state of national disaster. The article does this through lens of the specific sectors in which these exemptions were utilised and how successful these exemptions were. Finally, the article considers the difficulties that were encountered in the implementation of these exemptions and what this means for the continued use of the exemptions as the corona virus persists.

Keywords: block exemptions, COVID-19, competition law, national disaster, prohibited practices.

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