



The Hospital Association of South Africa

Policy Document: Competition Law

The Hospital Association of South Africa (hereinafter referred to as HASA) represents the private hospital industry in South Africa. It has a membership base comprising about 95% of private hospitals in the Republic. HASA is a section 21 company whose Board of Directors is elected annually by member hospitals from executives employed within the private hospital industry.

HASA plays many varied roles in service of the private hospital industry. It disseminates industry information by producing a monthly newsletter, maintaining a web page, and producing an annual publication called Health Annals. The Association also hosts national and regional industry conferences, represents the private hospital industry in government and other forums and advises and comments on new and existing legislation affecting private hospitals. HASA participates on behalf of the industry in the Health and Welfare Sectoral Education and Training Authority established in terms of the Skills Development Act, in standards generating bodies and other structures established in terms of the South Africa Qualifications Authority Act and on the South African Advertising Standards Authority.

At all times HASA members must ensure their compliance with related legislation and/or regulation, and in particular must ensure that with any discussion with any individual, institution, body and/or association, that their representations are compliant with Competition Law (see the Competition Act [Act No. 89 of 1998]). In accordance with this law, HASA enunciates the following policy:

1. That at all times members will act within the clearly defined provisions of HASA's Articles of Association (as registered and amended from time to time), and shall at no time deviate from these provisions under any circumstance whatsoever.
2. That any and all discussions relating to competition law and/or antitrust matters, shall be in strict compliance with this policy document, and that no deviation whatsoever will be considered being valid or binding on HASA or its members.
3. That no member of HASA on behalf of the Association shall engage in any discussion of; price, pricing procedures, discounts, credit terms, cost, production levels, liabilities, investments (current or projected), market information and/or commercial matters there related, with any individual, institution, organisation, association and/or body.
4. That at all times members of HASA who act on behalf of the Association, acquaint themselves with this policy document, and when in doubt as to any conduct which may or may not be in violation of this policy, that legal clarity first be obtained from the Executive Officer: Legal Affairs.

The following Conduct will be deemed to be in violation of this policy document, and shall not be interpreted as being limited to those points as discussed hereunder:

1. Any discussion in regards to what constitutes a fair profit margin.
2. Any discussion around price, pricing procedures, discounts, and/or credit arrangements, as it relates to any service, product, relationship, and/or arrangement, with any individual, institution, organisation, association and/or body. This shall include the State.
3. Any discussion around respective production concerns, levels of supply and/or inventory.
4. Any discussion around competing interests, levels of service, and/or prices, with a fellow member of HASA.

The following activities may be prohibited, and members are to ensure that at all times there is strict compliance with these provisions as stated, and should be reviewed by the Executive Officer: Legal Affairs in advance:

- Communications with any professional body, association, representative body, statutory Council, government agency, and/or government department (at national and/or provincial level).

Understanding that in terms of section 81 of the Act, the provisions of competition law are equally applicable to the State.

- Any meeting and/or gathering where there is a discussion around or move toward the: standardisation of products, procedures, services and/or supply of goods. Including but not limited to fees, tariffs and related matters.
- Any meeting where there is a joint discussion around Codes of Conduct, Certification and/or Standards applicable to the industry.

Members are therefore, required to:

1. Where possible have legal counsel at such meetings and/or discussions. This counsel shall not be limited to the Executive Officer: Legal Affairs, but shall also include independent and/or internal legal advisors.
2. Obtain a comprehensive agenda before any such meeting is attended, and ensure that the topics there provided are closely followed. In other words, members should resist allowing any discussion outside the provisions of those provided for in the agenda. Members should also ensure, that where possible, legal counsel are approached to give opinion in regards to the points raised on such an agenda, in advance.
3. Obtain minutes of these meetings, and where necessary ensure that HASA members are accurately recorded and/or represented.

<p><u>What to do in the event of a meeting that violates the above stated policy:</u></p> <p>Should any meeting deviate from the authorised agenda, and in your opinion or that of legal counsel become anti-competitive in any way whatsoever, then members are advised to do the following:</p> <p>(a) Immediately inform the meeting that in your opinion the discussion violates the policy document of HASA and that you object to continuing such discussion, and as such your continued participation in the meeting is subject to the discussion ending, and the meeting continuing in terms of the authorised and/or accepted agenda.</p> <p>(b) That in the event of such discussion continuing despite your objection, that the member immediately remove him or herself from that meeting, understanding that both active and/or passive participation in such discussions is equally prohibited in terms of the Act.</p> <p>(c) Members should ensure that in the event of the above happening, that their objections are noted for the record, and as soon as possible inform your respective legal counsel of this fact (if not present at the aforementioned meeting). The responsible person (member or legal counsel) will then re-iterate your (HASA's) objection in writing to the organisers of that meeting, within 24 hrs of having left or concluded that meeting.</p>
--

K. Worrall-Clare

Executive Officer: Legal Affairs.