



BRIEF NOTES IN RESPECT OF ECONOMIC GROWTH, COMPETITION, CONCENTRATION, BARGAINING POWER AND THE DAIRY INDUSTRY

1. In the context of economic growth and South Africa's national objectives, public statements were made in the recent past about competition, concentration and bargaining power in the South African dairy industry. Some of these statements do not adequately reflect particular principles and realities, which are of fundamental importance.

2. In respect of economic growth, competition, concentration (reduction of the number of participants in an industry), bargaining power and the dairy industry, the following are of fundamental importance:
 - a) Economic growth in South Africa is a pre-requisite for the improvement of the well-being of citizens, including transformation;

 - b) Economic growth in South Africa demands increase of the competitiveness of South Africa as a whole and thus increased performance by the public sector and the private sector;

 - c) In the private sector, competition between different members of each industry and competition between different industries, are required to improve competitiveness, to meet the needs of consumers and industrial buyers (which are subject to change), as well as for the optimal use of national resources. As a result of this competition and developments in respect of demand, the structures of industries are dynamic and the shares of different members of each industry, and the shares of different industries in the spending of consumers and industrial buyers, change;

 - d) In a market-orientated economy, in the absence of unfair competition, the driving force of the structure of an industry is competition and the more competitive members of an industry, grow at the expense of the least competitive. For example, in the food industry, this process is of crucial importance to meet the needs of the consumer in respect of all elements of the market mix which consists of more than only price, as other issues, such as food safety, type and size of packaging, taste, appearance and convenient availability, are also important. Due to the Competition Act and regulations in terms of the Act, unfair competition should be highly exceptional and it cannot occur over the extended period required to result in meaningful concentration (reduction in the number of participants in the industry) in an industry;

- e) Increased concentration (reduction of the number of participants in an industry), which is the result of the more competitive participants replacing less competitive participants, should not create concerns and should not be discouraged. Business development projects aimed specifically at transformation, should create competitive enterprises;
- f) The relative market shares of small, medium and large enterprises, will differ from industry to industry, due to differences in the key characteristics of different industries and the differences in the key characteristics of the demand for the products of the different industries;
- g) The level of concentration in a value chain in isolation or, in a particular element of a value chain in isolation, can in general not be used to make any conclusion about the level of competition, or whether the food produced/manufactured, meet the needs of the different segments of the consumer market and industrial buyers in terms of the different aspects of the marketing mix, such as type and size of packaging, taste, appearance, nutritional composition, food safety, shelf life and price. The reasons for this view are obvious, and are as follows:
- Assessment of the level of competition includes assessment of the behaviour of the members of the industry in the market, as well as of the extent to which the needs of different segments of the consumer and industrial markets are met, in respect of the different elements of the marketing mix;
 - The level of concentration in the relevant industry in South Africa, should be considered, taking into account the level of concentration in the same industry, in other countries;
 - Competition from similar imported products should be taken into account; and
 - Competition from products of other industries (substitute products and unrelated products and services) which industries also take action with the ambition to enjoy a higher share in the spending of the consumers and industrial buyers; and
- h) It is not compulsory for consumers to buy particular food products, such as dairy products. As a result, South African dairy products are not only competing with imported dairy products and substitute products and in particular market segments, dairy products are also competing with unrelated products and services¹⁾. Simply said, even if the whole South African dairy industry and the whole retail sector collude contrary to the Competition Act, the South African dairy industry will not be able to force the South African consumers and industrial buyers, to buy South African dairy products in the quantities and at the prices which the South African dairy industry want. The competition in an industry like the dairy industry, should therefore not be assessed without taking into account competition between the dairy industry and other industries, including service industries. In other words, individual members of the dairy industry cannot behave as if the dairy industry is entitled to enjoy a particular share of the consumer spending;

1. *For example, unrelated food products like bread and maize meal, and services like transport, energy and entertainment.*

- i) The competition in the dairy industry, is not only the competition in the market for unprocessed milk between the producers of unprocessed milk and the milk processors (producers of processed milk and the manufacturers of other dairy products like cheese and milk powder), but also, amongst other, competition between groups, which each consists of a milk processor and the producers of unprocessed milk who supply unprocessed milk to the milk processor concerned. Simply said, the performance of a milk processor, depends on the performance of its suppliers of unprocessed milk, and vice versa. Also, the notion which is believed and promoted by many, that the main issue in respect of the growth and development of the South African dairy industry is the bargaining between each milk processor and its suppliers of unprocessed milk, about the price of unprocessed milk, is not reality. The bargaining between the supplier and buyer of unprocessed milk is important, and covers more than price (as it also covers other variables such as composition of the unprocessed milk, food safety issues and seasonality of production), but it is not the only or main issue, in respect of the growth and development of the South African dairy industry;
- j) Obviously, the bargaining power in respect of a particular product, will be during periods when the demand exceeds the supply, shift to the suppliers of the product and in periods when the supply exceeds the demand, the bargaining power will shift to buyers of the product;
- k) The bargaining power of milk processors (producers of processed milk and the manufacturers of the other dairy products) and the bargaining power of the producers of unprocessed milk in the market for unprocessed milk, are disciplined by the following:
- Milk processors are highly dependent on their suppliers of unprocessed milk (producers of unprocessed milk) and producers of unprocessed milk, are highly dependent on the milk processors to which the producers of unprocessed milk sell their unprocessed milk. Simply said, the prosperity of the producers of unprocessed milk and the prosperity of milk processors to which they supply unprocessed milk, are inherently linked and it creates significant discipline in the relevant market;
 - The transparency of the South African market of unprocessed milk is high, due to the regular publication of information regarding market signals. The available information suggests that, via social media, information, including price information, rapidly flows between producers of unprocessed milk. In this regard, it is important that the average number of producers of unprocessed milk per milk processor, decreased from 18.6 in January 2009 to 8 in January 2021, according to data published in Lactodata. As a result, communication between the relevant parties is more effective than in the past;
 - The existence of structured consultation processes between particular milk processors and their suppliers of unprocessed milk;
 - Shareholding by producers of unprocessed milk in particular milk processors;

- The existence of selling groups through which particular producers of unprocessed milk, jointly participate in the market for unprocessed milk;
- In each of the major unprocessed milk production regions of South Africa, a number of milk processors are procuring unprocessed milk. In this regard, it is important that it is general knowledge that, due to competition between milk processors in the market for unprocessed milk, in every year a number of producers of unprocessed milk, shift from supplying particular milk processors, to other milk processors;
- The credibility of milk processors in the eyes of the producers of unprocessed milk, is playing a meaningful role in respect of the procurement of unprocessed milk. Similarly, the credibility of producers of unprocessed milk is important. For example, misuse by a milk processor of its bargaining power, in a particular situation in a particular period, will harm the ability of the milk processor concerned to procure unprocessed milk in future; and
- The Buyer Power Regulations implemented in terms of the Competition Act.

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