



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA



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**TO: HEADS OF PROVINCIAL EDUCATION DEPARTMENTS
HEADS OF PROVINCIAL GOVERNANCE SECTIONS
DISTRICT DIRECTORS
SCHOOL GOVERNING BODIES
SCHOOL PRINCIPALS
GOVERNING BODY ASSOCIATIONS**

CIRCULAR No. 11 OF 2020

CIRCULAR ON THE PROCUREMENT OF SCHOOL UNIFORM AND OTHER LEARNING-RELATED GOODS AND SERVICES

1. INTRODUCTION AND BACKGROUND

- 1.1. School uniform serves an important social and educational purpose. Competition in the supply of school learning-related items is, therefore, important because it benefits both parents (customer) and businesses involved in the manufacturing and retailing of school uniform. Competition allows new businesses to enter the market, it encourages firms to offer lower prices and better-quality products. This contributes to economic growth by creating, amongst other things, jobs and increasing consumer choice.
- 1.2. Since 2010, the Competition Commission (Commission) has received numerous complaints from parents who are forced by schools to buy school uniform exclusively from selected suppliers. This has been a widespread practice by many schools who sign exclusive supply agreements with specific pre-selected suppliers of school uniform. These agreements are entered into without any transparent competitive bidding processes and remain in force for between 10 to 50 years. The result of these long and exclusive agreements is

that they substantially prevent and lessen competition and parents are forced to bear the brunt and pay higher prices.

- 1.3. The Commission's investigation has resulted in the conclusion of settlement agreements with some of the big school groups. The Commission is also negotiating a settlement agreement with one of the biggest retailers of school uniform in South Africa.
- 1.4. In the era of COVID-19, the Commission has been receiving new complaints - this time related to requirements by schools for learners to wear school-branded or brand-specific COVID-19-related items. This includes face-masks, hand sanitizers, technological gadgets for e-learning purposes and other items. These additional requirements coupled with the persistently high prices of school uniform will have a harmful impact on parents who are already under severe financial pressure due to the COVID-19 pandemic.
- 1.5. Further, because of the hygiene requirements and protocols related to COVID-19, most schools have required learners not to repeat the wearing of uniform items on consecutive days. Whilst this is a commendable and responsible approach, it can place additional pressure on parents to procure additional school uniform items for their children.

2. PURPOSE OF CIRCULAR

The purpose of this circular is to:

- 2.1 Remind SGBs of the National Guidelines on School Uniform and to encourage them to adhere to the Guidelines;
- 2.2 Encourage School Governing Body Associations and Alliances to co-operate with the Commission and assist in monitoring compliance of SGBs to the School Uniform Guidelines;
- 2.3 Advise the SGBs to ensure that the cost of the school uniform and other learning-related goods and services should not constitute an unaffordable financial burden on parents;

- 2.4 Encourage the SGBs to follow consultative processes in decision-making for the procurement of school uniforms and other learning-related goods and services;
- 2.5 Discourage SGBs from anti-competitive behaviour in the procurement of school uniforms and other learning-related goods and services; and
- 2.6 Advise SGBs to comply with all the necessary legislation and policies when procuring school uniforms and other learning-related goods and services.

3. SCOPE AND APPLICATION

This circular applies to all licenced public and private schools in the Republic of South Africa.

4. LEGISLATIVE FRAMEWORK

- 4.1 The Constitution of the Republic of South Africa, 1996, as amended (Act No. 108 of 1996).
- 4.2 South African School, 1996, as amended (Act No. 84 of 1996),
- 4.3 Competition Act, 1998, as amended (Act No. 89 of 1998);
- 4.4 National Guideline on School Uniforms (GG 28538 of 23 February 2006).

5. PROCUREMENT OF SCHOOL UNIFORM AND OTHER LEARNING-RELATED GOODS AND SERVICES

- 5.1 Schools are encouraged to refrain from engaging in anti-competitive behaviour when developing or implementing procurement of school uniforms and other learning-related goods and services.
- 5.2 Schools are to ensure compliance with the Competition Act 89 of 1998 (the Competition Act), even during the COVID-19 pandemic, to promote an effective competitive environment which balances the interests of service providers and consumers to:
 - provide for markets in which consumers have access to, and can freely select the quality and variety of goods and services they desire; and
 - restrain particular trade practices which undermine a competitive economy.

- 5.3 The Guideline on School Uniforms issued by the Department of Education in 2006 discourages the use of a 'single supplier' or 'exclusive supplier' in the provision of goods and services. Using a single supplier requiring parents to purchase school uniform, which may include branded masks and other personal protective equipment can contribute to the high costs of school uniforms. This high cost of school uniforms constitutes an unaffordable financial burden to parents and restricts access of learners to schools in cases where parents cannot afford school uniforms.
- 5.4 The Guidelines also call for school uniform items to be as generic as possible. Schools should avoid compelling parents to procure branded items that are not critical to their school's identity or for the optimal functioning or purpose of the said items (e.g. safety and hygiene of children).
- 5.5 Unless there are efficiencies that can be gained (e.g. cost-savings or systems integration), schools should avoid compelling students to purchase particular brands of learning items.
- 5.6 Where feasible, procurement should be undertaken through a competitive bidding process.
- 5.7 Schools must not compel parents to purchase new/additional school uniform items for the purposes of clothes-rotation during the COVID-19 pandemic. Schools should consider alternative interventions, including permitting the wearing of civilian clothing by learners, on some days.
- 5.8 Decision-making processes regarding school uniforms and any other learning-related goods and services should ensure that parents are provided with all the necessary and relevant information to make an informed decision.

6. CONCLUSION

School Management Teams and Governing Bodies are required to ensure compliance with this circular and the Guideline on School Uniforms in all matters relating to school uniforms. School Management Teams and Governing Bodies are also required to ensure that agreements for the purchase

of all other learning-related goods and services do not infringe any of the provisions of the Competition Act.

Yours sincerely

A handwritten signature in black ink, appearing to be 'HM Mweli', written in a cursive style.

MR HM MWELI
DIRECTOR-GENERAL
DATE: 06/11/2020

COMMISSIONER
COMPETITION COMMISSION
DATE: