

UNIVERSITY OF FORT HARE
NELSON R MANDELA SCHOOL OF LAW
(East London Campus)

COMPETITION LAW
LMC 412E / LMC 413E

EXAMINATIONS 2023
MAIN EXAMINATION PAPER

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Mode: SIT- DOWN
Time: 3 HOURS
Subject: COMPETITION LAW
Code: LMC 412E / LMC 413E
Pages: 3
Marks: 100

EXAMINERS:

Internal Examiners:
Ms. L E. Gomomo

External Examiner:
Dr. T. Kondo

INSTRUCTIONS

1. Answer ALL questions.
2. Substantiate your answer by reference to applicable case law and/or legislation.
3. Pay attention to marks allocation.

QUESTION 1

Discuss the regulation of competition in franchising agreements under the Competition Act 89 of 1998 (as amended) and as assessed in the *Cancun Trading No 24 CC/Seven-Eleven Corp SA Case 18/IR/Dec99* case. In your answer also refer to applicable legislation, guidelines and case law.

[25 Marks]

QUESTION 2

Write short notes on the following:

2.1 The application of the concept of price gouging during the COVID-19 pandemic [15].

2.2 The concept of single economic entity in terms of section 4(5) of the Competition Act 89 of 1998 (as amended) [10]

[25 Marks]

QUESTION 3

Firm A is a dominant firm in the Beer market with 90% of the market share. Firm A's annual turnover in the Republic amounts to 5 Billion Rands. The Competition Commission alleges that Firm A has engaged in price discrimination as a seller in terms of section 9(1) of the Competition Act 89 of 1998 (as amended) by selling its products to its customers, the so-called Appointed Distributors (Ads) more favourable retail prices and discounts as opposed to its Independent Distributors (IAs) a retail price and no discounts. In your answer, also discuss:

- (a) The abuse of dominant restrictive threshold applicable in terms of section 6 of the Act;
- (b) The market share and onus of proof on dominance applicable in terms of section 7 of the Act;
- (c) Market assessment; and
- (d) The theory of harm applicable and analyse the above scenario in reference to the relevant legislation and case law.

[25 Marks]

QUESTION 4

Discuss how the Competition Tribunal assessed the merger in *Trident Steel (Pty) Ltd/ Dorbyl Ltd 89/LM/Oct00*. In your answer also refer to merger classification, notification, and on the assessment of the SLC test, SLC factors taken into account, efficiency gains, efficiency defence, and public interest considerations in terms of the Competition Act 89 of 1998 (as amended).

[25 Marks]

[Total for this paper: 100 marks]

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