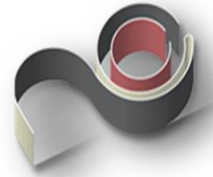




the dtic

Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA



NATIONAL CONSUMER COMMISSION

a member of **the dti** group

**JOINT BRIEFING TO THE PORTFOLIO COMMITTEE ON TRADE AND
INDUSTRY AND
THE SELECT COMMITTEE ON TRADE AND INDUSTRY, ECONOMIC
DEVELOPMENT, SMALL BUSINESS DEVELOPMENT, TOURISM,
EMPLOYMENT AND LABOUR**

19 May 2020

NATIONAL CONSUMER COMMISSION (NCC)

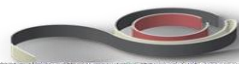
DELEGATION

NAME & SURNAME	POSITION	PHONE NUMBER	EMAIL
Ms Thezi Mabuza	Acting Commissioner	083 653 2391	T.Mabuza@thencc.org.za
Ms Prudence Moilwa	Divisional Head: Enforcement & Investigation	061 626 0573	P.Moilwa@thencc.org.za
Mr Jabulani Mbeje	Divisional Head: Legal Services	082 261 3961	J.Mbeje@thencc.org.za
Mr Jacob Mulaudzi	Systems Administrator	084 021 1987	J.Mulaudzi@thencc.org.za



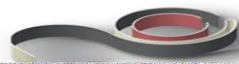
OUTLINE

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5. Assessment of complaints & approving investigations
6. Completed investigations
7. Matters closed/ not referred
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10. Challenges
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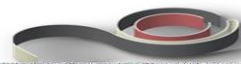
INTRODUCTION

1. NCC advised **the dtic** that **price gouging** (abrupt spike in pricing) is likely to occur during COVID19 state of disaster, as suppliers could raise prices to unfair levels which impacts negatively on consumers.
2. Consumers engaged in panic buying of essential goods, including soaps, sanitizing products, foodstuffs and the like. The NCC was of the view that such panic buying results in:
 - i. **Suppliers abruptly increasing prices on essential goods and services;**
 - ii. **Vulnerable consumers not having access to essential goods and services.**
3. As such, government had a duty to protect consumers from unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices.
4. Following representations by the NCC, Minister promulgated Regulation in Notice 350. The regulations had an immediate and positive impact in dealing with the concerns of the NCC on behalf of consumers.
5. To date, only a small number of businesses have seemingly not complied. The big suppliers have mainly complied.

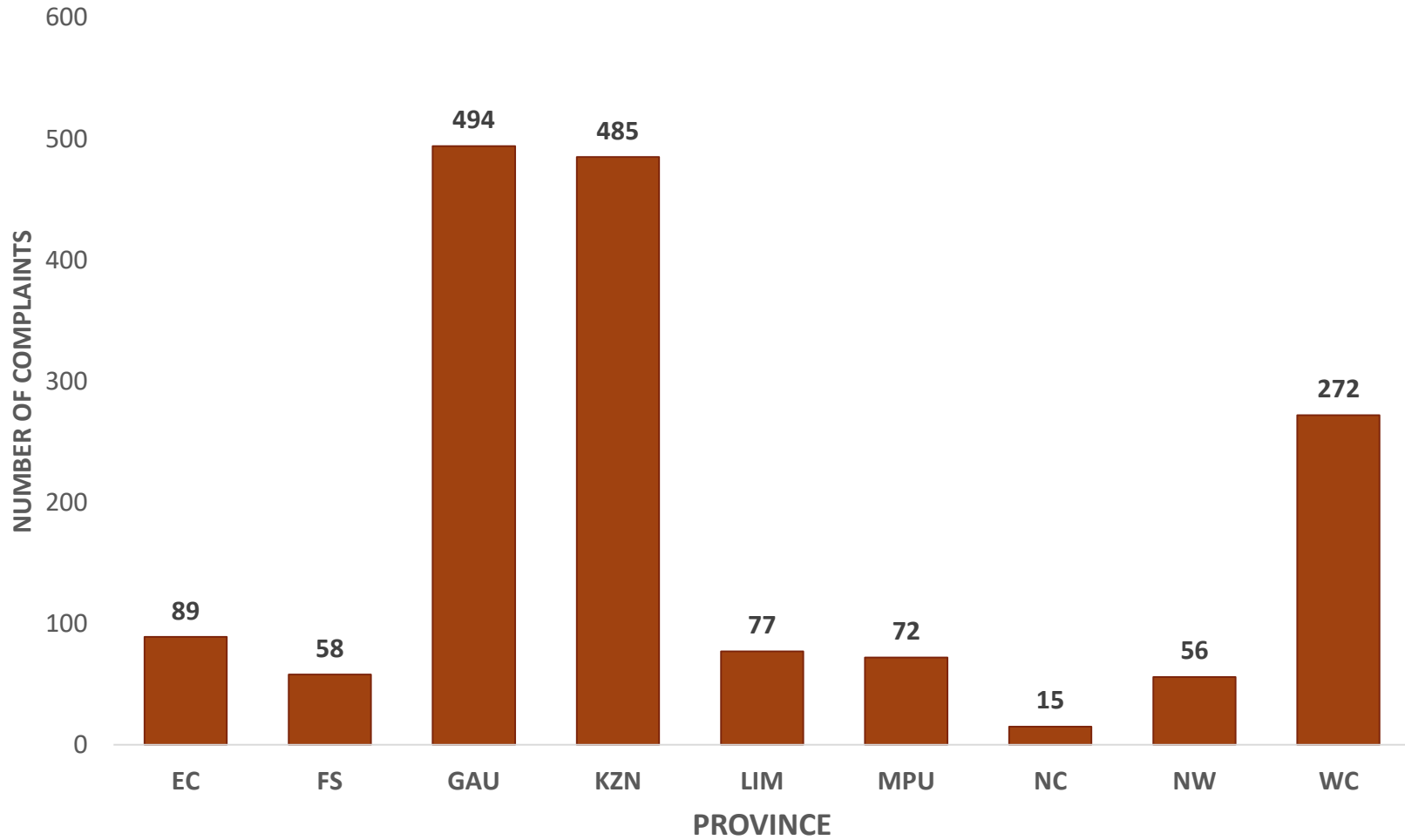


CALLS & COMPLAINTS RECEIVED

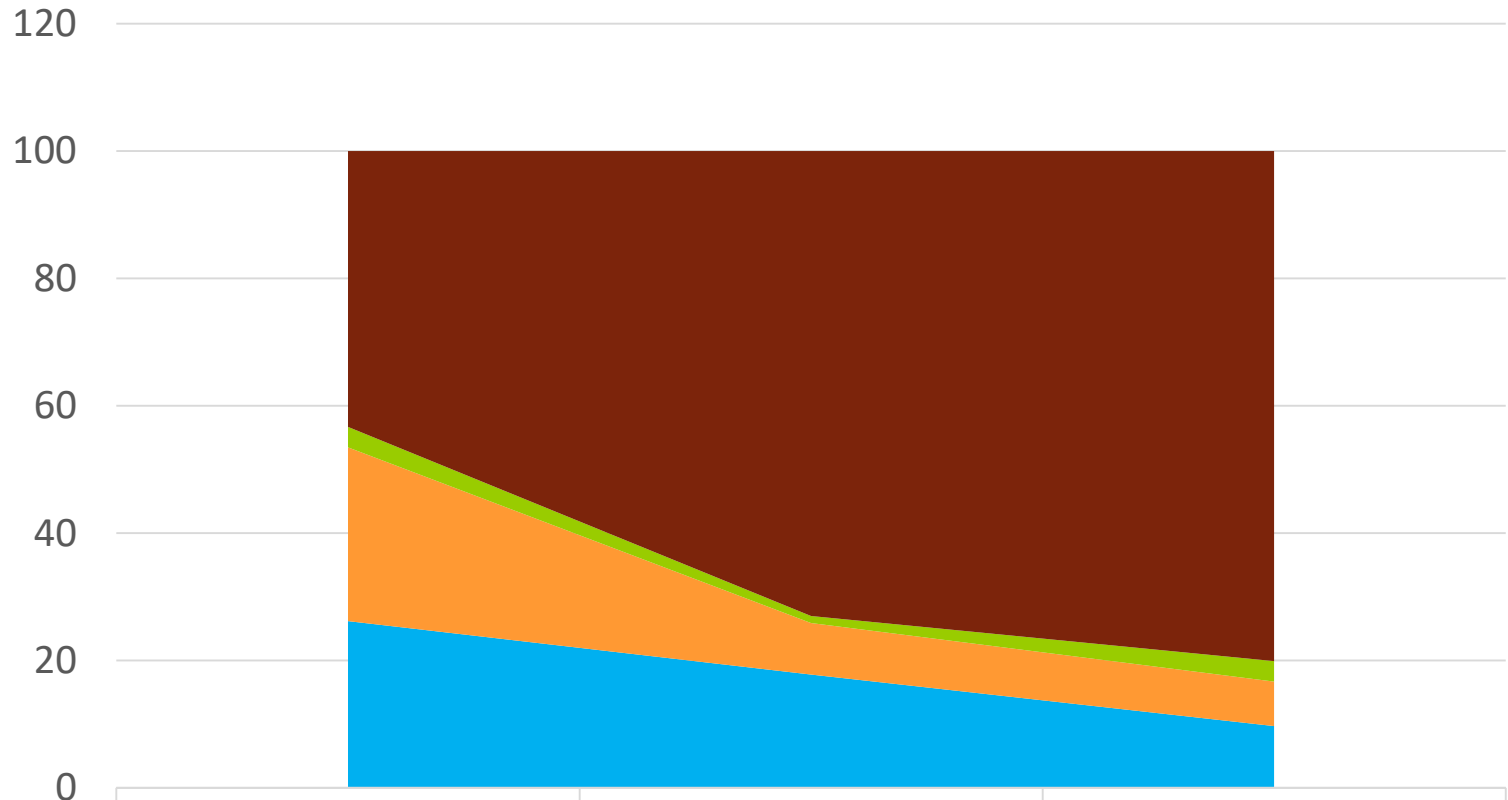
1. The COVID-19 toll free line (**0800 014 880**) was launched by the NCC on 19 March 2020 during a media briefing hosted by the Minister, post the declaration of state of national disaster.
2. Set up a Twitter account **@NCC_COVID19** to assist in raising their issues. Consumers with complaints were then forwarded a complaint form and a direction on how to file a complaint
3. From 28th March to 3 April 2020, a public awareness campaign was undertaken on SABC's 11 national radio stations to alert consumers about the toll free line and the Regulations.
4. For the period 23 March to 12 May 2020, the NCC received **2900** calls on its COVID-19 toll-free hotline. A total of **2533 (87,3%)** calls were answered and **367 (12,7%)** were lost/ abandoned.
5. Of the **2533** complaints received to-date, **1618** complaints alleged price gouging relating to regulated essential products. The remaining **915** complaints were not related to the Regulation. These complainants were referred to the relevant platforms.



COMPLAINTS PER PROVINCE



COMPLAINTS TRENDS: MARCH TO MAY



	March	April	May
■ Food & Hygiene	43,3	73	80,1
■ Gloves	3,2	1,1	3,2
■ Hand Sanitizers	27,3	8,1	7
■ Face Masks	26,2	17,8	9,7



ASSESSMENT OF COMPLAINTS & APPROVING INVESTIGATIONS

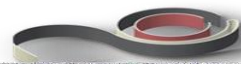
1. When complaints were received through the Toll-free number, these were recorded in relation to supplier, province, town and details of the commodity.
2. The data was aggregated to determine trends and a comparison of prices against statistics from STATSSA and weekly statistics of prices collected by Nestlé fieldworkers.
3. There were many instances where a number of consumers would complain about one supplier. These complaints were then prioritised as it may impact on a larger number of consumers.
4. During the assessment of complaints where prices were above the norm and there was reasonable suspicion of violation of the Regulation, then an investigation would be approved and an investigation certificate would be issued and served on the supplier through email.
5. To date **127** investigations were approved.



COMPLETED INVESTIGATIONS (1)

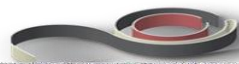
29 investigations have been completed

No.	Supplier	Prov	Town	Product
1	Pick n Pay	WC	Cape Town	Hand Sanitizer
2	Dischem	GP	Midrand	Hand Sanitizer & Face Mask
3	Makro	KZN	Durban - Springfield	Toilet Papers
4	North Safety	WC	Cape Town	Dust Mask
5	Checkers Hyper	WC	Cape Town	Snowflake Flour
6	Local Pharmacy	NW	Vryburg	Sanitizer
7	Lynx Chemicals	GP	JHB Bramley	Sanitizer
8	National Overalls	GP	Pretoria	Facial Mask
9	Westgate Pharmacy	WC	Westgate	Sanitizer
10	Mopani Pharmacy	MP	Mbombela	Hand Sanitizer, Dust mask



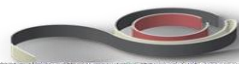
COMPLETED INVESTIGATIONS (2)

No.	Supplier	Prov	Town	Product
11	Clicks Retail Pty Ltd	GP	Westgate and Vryburg	Hand Sanitizer
12	Free State Pharmacy	FS	Bloemfontein	Hand Sanitizer, gloves
13	Pelican Pharmacy	KZN	Durban	Hand Sanitizer
14	Van Heerden Chemist	LMP	Belabela	Hand Sanitizer & Face Mask
15	Jacage Supplies	GP	Pretoria	Facial Mask
16	Super Spar Silver Oaks	GP	Pretoria	Dettol antiseptic liquid
17	Sea Side Pharmacy	WC	Cape Town	Facial Mask
18	Pick n Pay	GP	Tembisa	Rice , Cooking Oil, Mealie Meal
19	Protekta Safety Gear	GP	Meadowdale	Facial Mask
20	Spar Eldoraigue	GP	Centurion	Hand Sanitizer



COMPLETED INVESTIGATIONS (3)

No.	Supplier	Prov	Town	Product
21	Baby Boom	EC	Mthatha	Baby Formula
22	Hennox Suppliers	GP	Isando	Facial Masks
23	Kwik Spar	GP	Kempton Park	Long Life Milk
24	People's Pharmacy	KZN	Pine Town	Facial Masks
25	Pinnacle Welding & Safety	GP	Wadeville, Jhb	Facial Masks
26	Merlot Pharmacy	WC	Parklands, Tableview	Hand Sanitizer & Facial Mask
27	Belegi Workwear	GP	Pretoria	Facial Mask
28	Health & Home Protea Pharmacy	GP	Kempton Park	Facial Mask
29	Kit Kat Cash & Carry	GP	Pretoria	Hand Sanitizer



INVESTIGATIONS CLOSED/NOT REFERRED

Of the **29** investigations completed, 11 matters were closed and will not be referred to the Tribunal as no contravention of the Regulations were found or settlement was reached between Competition Commission and respondents on the same product.

Supplier	Province	Product
1. Pick 'n Pay (Cape Town)	WC	Hand Sanitizer
2. Makro (Durban: Springfield)	KZN	Toilet Papers
3. Checkers Hyper (Cape Town)	WC	Snowflake Flour
4. Free State Pharmacy (Bloemfontein)	FS	Hand Sanitizer, Gloves
5. Pelican Pharmacy (Durban)	KZN	Hand Sanitizer
6. Sea Side Pharmacy (Cape Town)	WC	Facial Mask
7. Baby Boom Mthatha	EC	Baby Formula
8. Super Spar (Silver Oaks)	GP	Dettol Antiseptic Liquid
9. Janus Trading (Kempton Park)	GP	Hand Sanitizer
10. Van Heerden Pharmacy (Bela Bela)	LIM	Hand Sanitizer & Face Mask
11. Pick n Pay (Tembisa)	GP	Rice, Cooking Oil, Mealie Meal



MATTERS REFERRED TO TRIBUNAL/ SETTLED (1)

SUPPLIER	PROV	PRODUCT	STATUS
1. Lynx Chemicals (Bramley)	GP	Sanitizer	Filed at the Tribunal on 9 April and heard on the 30 April- judgment was in favour of supplier
2. National Overalls (Pretoria)	GP	Facial Mask	Founding papers settled- awaiting for Respondent's consent to service of papers by email.
3. Mopani Pharmacy (Mbombela)	MP	Hand Sanitizer, Dust mask	Settlement agreement (awaiting confirmation at Tribunal): Admin fine of R52 796; donation of 2500 reusable masks to non-profit organization serving vulnerable groups and not to sell masks with a mark-up of more than 50%
4. Kit Kat Cash & Carry (Pretoria)	GP	Hand Sanitizer	Filed at the Tribunal on the 11 May 2020. respondent has 4 working days to file answering papers



MATTERS REFERRED TO TRIBUNAL/ SETTLED (2)

SUPPLIER	PROV	PRODUCT	STATUS
5. Belegi Workwear (Pretoria)	GAU	Mask	Ready for filing- settlement proposal under consideration
6. Dischem	Head Off	Mask	Founding papers being settled, will file not later than 19 May. Certain amendments had to be made on the investigation report.
7. People's Pharmacy	KZN	Mask	Founding papers settled- awaiting for the Respondent to consent to service of papers by email.
8. North Safety Products	Cape Town	Mask	Founding papers settled- awaiting for the Respondent to consent to service of papers by email.



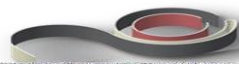
FINANCIAL IMPLICATION & BENEFITS

Financial implication

1. Cost of Toll free line thus far - R65 000.
2. Budget of R470 000 allocated for attorneys- no funds disbursed as yet.
3. The costs to be expended is $\pm 4.6\%$ of Goods & Services budget.

Benefits

1. The fact that **the dtic** responded immediately in promulgating price gouging regulations, most consumers were spared excessive prices.
2. The provision of the toll-free service & media campaigns have heightened consumer alertness to unfair price hikes as seen spiralling of calls.
3. The actual monetary benefit to consumers cannot be quantified.
4. However, it is of significant importance that government responded immediately to protect consumers from unscrupulous suppliers.
5. By preventing unwarranted price increases, the already reduced income of many consumers could be stretched further.
6. The engagement of Minister with business assisted as Nestlé offered its services to NCC to scan prices at the shelves to assist NCC to compare similar products and make informed decision on which matters to investigate.



CHALLENGES (1)

1. Although consumers in rural areas called the toll free number to file complaints in the beginning, the numbers began to reduce. This is evident in the number of calls received.
2. Engagements with provincial Consumer Affairs Offices in the webinar held on the 8th May with members of the Consumer Protection Forum revealed that the enforcement of Regulation 350 was perceived as the sole responsibility of the NCC and the Competition Commission.
3. No consistency in the enforcement of the Regulation in the different provinces. Consumer Affairs offices in some provinces did not perform any activities related to enforcement.
4. Not all Consumers in townships and rural areas fully benefitted from regulated prices, as informal traders (spaza shops) could not be served with investigation certificates (no receipt issued to consumers, not registered as business and had no email addresses or formal contact details).



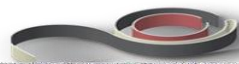
CHALLENGES (2)

1. Though 127 investigations have been approved, investigation certificates could not be served on some of the suppliers especially the informal operators as they were not registered as companies nor had formal directors for proper citation.
2. Some **suppliers** did acknowledge receipt but requested for more time to respond as they were not operating during the lockdown.
3. Filing requirements at the Tribunal are still onerous: Though consumers could use the toll-free number to complain, when filing matters, the rules of the Tribunal had to be followed to attach signed complaint forms (delay in filing).
4. In filing at the Tribunal, the NCC is still required to ask the supplier to agree to be served through email, some suppliers take their time to accede to the request.



CONCLUSION

1. It is essential to ensure that when Regulation is issued (especially at national level), that there is a 'meeting of minds' between affected regulators (NCC and provincial Consumer Affairs Offices) in understanding what is required of all regulators throughout the Republic.
2. The education and awareness campaigns though helpful to drive messages to consumers, the campaigns need to be supported by messages at provincial level through Community Radio Stations to reach more consumers.
3. There should also be a concerted effort to ensure that all suppliers (including informal sector) are subject to the same enforcement actions where they can be served with papers during an investigation.
4. Regulation on price gouging was in time and on point to mitigate against unfair and unjust pricing, but there should also be Tribunal rules that would accommodate consumers with no email addresses when they are required to sign off complaint forms and a clear guide on serving of documents without asking for consent.



Thank you!

**National Consumer Commission
South Africa**

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