

# *competition appeal court*

Babelegi Workwear and Industrial Supplies CC v. The Competition Commission



## Open Secrets and Health Justice Initiative joint amici submission in South Africa's first contested excessive pricing case in the Competition Appeal Court (CAC)

This is the first contested excessive pricing case in South Africa, which has been taken on appeal to the CAC. The CAC's decision will have important consequences for how all companies are held accountable for their pricing in this pandemic, and how the public will be protected.

An amicus is a 'friend of the court' – a joint amici means more than one organisation is applying together, to be friends of the court in the same matter. In this appeal, Open Secrets (OS) and the Health Justice Initiative (hji) sought permission and were jointly admitted as amici. The South African Human Rights Commission (SAHRC) has also been admitted as a separate amicus in this appeal.



This was the first Covid-19 related case of excessive pricing of Personal Protective Equipment (PPE) to be referred to the Competition Tribunal. The Tribunal found Babelegi guilty of excessive pricing on face masks and issued a fine of R76 000. Babelegi is appealing the decision. The Competition Appeal Court will also consider the application of the amended section 8 of the Competition Act for the first time. It does so in an unprecedented context of a worldwide pandemic.

In a judgement dated 18 November 2020, the appeal by **BABELEGI WORKWEAR AND INDUSTRIAL SUPPLIES CC** ("Babelegi") against a decision of the Competition Commission and a finding of excessive pricing by the Competition Tribunal dated 1 June 2020, was dismissed.

