

Over 2,000 malls set for transformation as exclusive leases end

More than 2,000 shopping malls and retail centres in South Africa are on the brink of undergoing a significant makeover.



Source: Cavendish Square.

This follows in the wake of major retail group Spar joining Pick n Pay and Shoprite in dismantling their longstanding exclusive lease agreements that have up until now curtailed the participation of SMES and supermarkets owned by historically disadvantaged persons (HDPs) in malls.

This significant milestone will see the greater representation of SMES and HDPs in thousands of shopping malls and convenience centres nationally.

The Competition Commission commented that the consent agreement will ultimately pave the way for greater fairness and competition in South Africa's grocery retail market to the benefit of consumers across the country.

The exclusive lease agreements of Shoprite, Pick n Pay, and Spar covered nearly 2,000 shopping malls and convenience centres nationwide, effectively excluding specialist or general grocery supermarkets from competing for consumers in those locations. Given that over 50% of grocery shopping occurs in malls and convenience centres, these leases had effectively prevented competition for most consumer purchases.

This development follows Grocery Retail Market Inquiry (GRMI)'s recommendations. In its final report published on December 17, 2019, the GRMI concluded that these agreements limited consumer choice within shopping centres, sustained high concentration levels, created barriers for SMEs and HDPs, and hindered innovation in the grocery retail sector.

To address these concerns, it recommended that national supermarket chains voluntarily phase out exclusive leases within five years.

Fostering fairness through consent agreements

In light of ongoing discussions between the Commission and the Spar Group, a consent agreement has been reached. This agreement commits the Spar Group to cease enforcing exclusivity provisions for company-owned stores immediately and will not include such provisions in future lease agreements.

Regarding Spar Group head leases for stores owned by Spar retail members, exclusivity provisions will cease to be enforced against SMEs, HDP specialist stores, and HDP supermarkets immediately. This exemption applies to franchisees of national chains in the first year but covers them thereafter. The Spar Group will exclude exclusivity provisions in all new head leases and will discontinue enforcing exclusivity against all competitors by December 2026.

Additionally, the Spar Group will actively encourage Spar retail members to adhere to the agreement's provisions within 12 months from the date of signature.

The consent agreements of Spar, Shoprite and Pick n Pay will be submitted to the Competition Tribunal for confirmation.

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