Vodacom investigated for 'abuse of dominance'

By Thabiso Mochiko

5 Oct 2017

In a move that caught the market off guard, the Competition Commission said on Wednesday it was investigating Vodacom for abuse of dominance after it clinched an exclusive R5bn contract to supply voice and data services to the government.

© Sergey Nivens – 123RF.com

The surprise announcement sent Vodacom's share price tumbling as much as 8% in afternoon trade before it pared losses to close 3.22% lower at R151.36. The contract, which will run until 2020, was awarded by the Treasury in September 2016 following an open tender process.

The decision was intended to save the government money and would provide services to an estimated 1.3-million government employees.

Vodacom and the Treasury were surprised by the investigation as the commission was consulted prior to awarding the contract to Vodacom.

The Treasury confirmed it had written a letter to the commission to determine if there could be potential competition issues arising from the contract. "An opinion was received," said the Treasury.

"Based on the value proposition, the award was made to a single bidder in the absence of other solid value propositions that met with the tender requirements," it said.

The commission's head of communications, Sipho Ngwema, said the commission had "reasonable grounds to suspect that the exclusive contract may constitute an exclusionary abuse of dominance by Vodacom in contravention of the Competition Act".

Before Vodacom entered into the exclusive four-year agreement with the Treasury, all government departments could buy mobile telecommunication services from any mobile network operator.

According to Ngwema, the commission has information that there are 20 government departments which will be subjected to the new Vodacom contract. Other departments, including state-owned entities and municipalities, will be incentivised to adopt the new contract. He said as a dominant company there were obligations for Vodacom not to conduct itself in a particular manner.

Vodacom spokesman Byron Kennedy said the awarding of the contract was based on various criteria, including cost savings, quality of service, security, coverage, support and billing, quality of network and technology innovation.

"One of the key objectives of which was to reduce government's communication costs", he said.

"None of the pricing structures put forward to National Treasury was based on an exclusive provider award basis, or any restrictive minimum commitments," Kennedy said.

Vodacom was "confident that we followed due process in a fiercely contested and transparent bidding process".

"In our various dealings with National Treasury throughout this 18-month process, we understand they were subjected to rigorous governance processes, including consultation with the Competition Commission prior to awarding the contract," Kennedy said. Mergence Investment Managers portfolio manager Peter Takaendesa said that when the transaction was announced "we were quite surprised" that the government would allocate all its mobile connectivity services to one service provider when there were other suppliers of scale and strong empowerment credentials.

"It's fair to say that at the time Vodacom had the best mobile network " but we were concerned that the exclusive government agreement would materially weaken the competition", especially MTN SA in the cellphone contract market.

BMI-TechKnowledge consulting director Denis Smit said that in the face of declining government income the Treasury was under severe pressure to save money - as its legitimate responsibility.

"Whilst BMI-T is sympathetic to the fact that Vodacom won in an open tender process we are curious that National Treasury only opted for one supplier as they would have been aware that a single supplier arrangement could possibly be challenged," he said.

Source: Business Day