

# CMS NEWSFLASH

24 January 2007

## DEFAMATION

The January 2008 edition of *Medical Chronicle* included an article under the heading: "Netcare Pays for Price Fixing".

The article amounted to a substantial defamation against Alex van den Heever (an advisor to the Council for Medical Schemes) and the Council for Medical Schemes.

The article is not only factually incorrect and manifestly unbalanced, but it also falsely attributes to the Competition Tribunal, extensively quoted remarks with regard to evidence provided by van den Heever in the case. In fact, those remarks were made by Netcare's lawyers in argument in an attempt to discredit van den Heever's testimony.



*Van den Heever*

The Registrar of the Competition Tribunal, Ms Lerato Motaung, has provided a response to this article and states as follows:

**"In the article several remarks critical of Mr Van den Heever, a witness who testified at our proceedings into the merger between Netcare and the Community Health Group Ltd in 2007, are attributed to the Competition Tribunal.**

**"No such remarks were made by the Tribunal. The only comments on Mr Van den Heever's evidence made by the Tribunal are contained in our decision which is available on our website – [www.comptrib.co.za](http://www.comptrib.co.za). (See paragraphs 37, 57, 66, and 81 on pages 14, 23, 27-28 and 31 of our reasons).**

**"It appears that the remarks concerning Mr Van den Heever, attributed to the Tribunal, were made by Netcare's attorneys in written heads of argument submitted to the Tribunal. As Mr Van den Heever was testifying as to why the merger should be prohibited, his evidence was adverse to the interests of Netcare and its comments need to be seen in context. (See paragraphs 5 and 95 of the annexure to the Heads of Arguments of Netcare.)"**

The Council for Medical Schemes has sent a letter of demand to the Medical Chronicle to take specific actions to mitigate the substantial defamation. If the response to this letter of demand is inadequate, legal action will be taken against the Medical Chronicle.