



The Chairman made a brief introduction and asked appellant's representative to make her submissions.

Ms Maria Gatt on behalf of the appellant Pemix Distributors Limited said that appellant's tender was disqualified since the waist band of the product submitted by them was not elasticised. She declared that appellant was not objecting in the real sense, because of the price, but wanted to make suggestions on the specifications of future call for tenders for the product in question, that is, adult nappies. She explained that having an elasticised waist band is an old practice since this waist band could cause sores on the elderly patients. She contended that the product submitted by appellant was a modern concept having the elastic at the front part of the nappy. She did not know if the Public Contracts Review Board was the right venue to push forward this suggestion for future tenders.

The Chairman explained to the appellant's representative that the Board could only examine whether the contracting authority acted within the parameters of the regulations and could not put forward such suggestions.

At this point the hearing was closed.

**This Board,**

**Having noted the appellant's objection in terms of the "Reasoned Letter of Objection" dated 18<sup>th</sup> December 2014 and also through the appellant's verbal submissions during the Hearing held on 15<sup>th</sup> January 2015, had objected to the decision taken by the pertinent authority in that:**

- a) The appellant contends that his offer was disqualified due to the fact that the waist band of the product submitted was not elasticised. The appellant claims that the elasticised waist band is an outdated system, as this could cause discomfort to elderly patients;**
- b) In their verbal submissions, the appellant suggested that for future tenders, the most updated product should be requested by the Contracting Authority.**

**Reached the following conclusions:**

- 1. This Board cannot process the appellant's contention whereby the same claims that the elasticised waist band is an outdated product, due to the simple fact that it is not the Board's jurisdiction to challenge the technical specifications dictated in the Tender Document. This Board appreciate the suggestion that the product being tendered for should be of the most updated version to ensure the least discomfort to elderly patients. Any such recommendations should be addressed to the respective Contracting Authority. In this regard, the Board does not uphold the Appellant's contentions.**

**In view of the above, this Board finds against the appellant company. However, due to the fact that the appellant admitted in the first instance, that the same was not objecting in the real sense, the same Board recommends that the deposit paid by the Appellant should be reimbursed.**

Dr Anthony Cassar  
Chairman

Dr Charles Cassar  
Member

Mr Lawrence Ancillieri  
Member

*27 January 2015*