

PRESS STATEMENT

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Sasol settles fertiliser case with Competition Commission; to pay R188 million

Sasol Chemical Industries Limited ("Sasol") has settled two fertiliser cases with the Competition Commission, admitting it contravening section 4(1)(b) of the Competition Act prohibiting cartel conduct. Sasol agreed to pay a penalty of R188 010 000. This agreement is subject to confirmation by the Competition Tribunal.

This fine is the highest settlement reached with the Competition Commission to date and is based on 6% of the turnover of the Sasol Nitro division. The agreement relates to the following cartel conduct:

- a complaint filed by Nutri-Flo, a small blender and distributor of fertiliser, and subsequently referred by the Commission to the Tribunal in May 2005 in respect of collusion on the part of Sasol, Omnia and Yara (previously known as Kynoch) in nitrogenous fertiliser products;
- related practices in the fertiliser market subsequently identified by Sasol as part of its internal competition compliance review in 2008; and
- collusion by Sasol and Foskor in phosphoric acid supply (used in fertiliser and animal feed) which was being investigated by the Commission.

In the Nutri-Flo matter, the Commission found that Sasol and its competitors, Omnia and Yara, divided markets and fixed prices. Sasol, Omnia and Yara, the main suppliers of fertiliser in South Africa, set up various committees to co-ordinate business practices, derive forecasted market shares and ensure balance of supply and demand. In addition, arrangements between these competitors resulted in Sasol becoming the sole wholesale supplier of an important fertiliser product, limestone ammonium nitrate (LAN).

Sasol's compliance review uncovered further collusive practices between Sasol, Omnia and Yara, including price fixing, market allocation and collusive tendering in the supply of a wide range of fertiliser products in the period 1996 to 2004, across most provinces of South Africa.

The collusive conduct between Foskor and Sasol was identified by the Commission following a merger filing. This conduct relates to a tolling agreement concluded by Sasol and Foskor, in terms of which Foskor became the sole supplier of phosphoric acid to the South African market. In May 2008, Foskor applied for conditional immunity from prosecution in terms of the Commission's corporate leniency policy in relation to contraventions of section 4(1)(b) of the Act. This was subsequently granted.

The settlement is limited to collusive conduct and there are outstanding allegations of abuse of dominance in both matters. With regard to nitrogenous fertiliser products these relate to, amongst others, excessive pricing and exclusion of competitors by Sasol. In the phosphoric acid matter this relates to excessive pricing by Foskor. Settlement discussions in these respects are continuing with Sasol and Foskor.

Omnia and Yara continue to deny the allegations of collusive conduct in continuing proceedings before the Competition Tribunal.

"Fertiliser and animal feed are key inputs for food production, and anti-competitive conduct in these products harms farmers and consumers. The Commission will continue its focus on these important markets." said Shan Ramburuth, Competition Commissioner.

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