

## **MEDIA RELEASE**

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### **Two major oil companies settle bitumen cartel case**

The Commission has reached settlement agreements with two major oil companies, namely Engen Petroleum Limited (Engen) and Shell South Africa Marketing (Pty) Limited (Shell) in which they admit to having fixed the price of bitumen with other oil companies by collectively determining and agreeing on pricing principles, including a starting reference price and monthly price adjustment mechanism. Engen has agreed to pay a penalty of R28 800 000 and Shell has agreed to pay R 26 259 480.

These settlement agreements follow the Commission's referral on 04 March 2010 of its findings against the Southern Africa Bitumen Association (SABITA) and seven major oil companies namely, Chevron SA (Pty) Ltd, Engen, Shell, Total SA (PTY) Ltd, Masana Petroleum Solutions (Pty) Ltd, Sasol Limited and Tosas (Pty) Ltd to the Tribunal for adjudication. The Commission did not seek a penalty from Sasol and its subsidiary, Tosas, which were granted conditional immunity following the leniency application filed with the Commission by Sasol on 12 January 2009. Subsequent to the referral, the Commission previously concluded settlement agreements with Masana and SABITA in 2010 and 2011, respectively.

Bitumen is one of the by-products from crude oil refining. Bitumen and modified bitumen products are used to surface and rehabilitate roads, as waterproofing products and to suppress dust. The end customer of bitumen is mainly government road agencies and municipalities.

This case was initiated following information received from Sasol and its subsidiary Tosas in the leniency application. In its investigation the Commission found that the oil companies entered into an agreement and engaged in collusive conduct from around 2000 until at least December 2009. The conduct included the exchange of competitively sensitive information relating to the pricing of bitumen and associated products, and the use of an agreed pricing formula to set the wholesale list selling price of bitumen. This was facilitated through meetings convened by the industry association, SABITA, as well as correspondence through SABITA and direct communication between oil companies.

The Commission has filed these agreements with the Tribunal and awaits set down for confirmation as orders of the Tribunal.

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For more information:

Molebogeng Taunyane, External Communication Coordinator

012 394 3289/082 646 8663 / [molebogengt@compcom.co.za](mailto:molebogengt@compcom.co.za)