



**competition commission**  
*south africa*

## **Consent agreement between Competition Commission and Sime Darby gets approval**

**Date: 21 July 2016**

The Competition Commission (Commission) welcomes the approval of its consent agreement with Sime Darby Hudson Knight (Pty) Ltd (Sime Darby) by the Competition Tribunal. This agreement relates to Sime Darby's involvement in collusive practices in the manufacture and supply of edible fats and oils.

In 2012, the Commission received a third party complaint alleging that Sime Darby and its competitor, Unilever South Africa (Pty) Ltd (Unilever), had engaged in collusion in contravention of the Competition Act. As part of the investigation, the Commission raided the offices of Unilever in Durban and Sime Darby in Boksburg, in 2014.

The Commission's investigation uncovered evidence which shows that between 2004 and 2013, Unilever and Sime Darby engaged in the prohibited practice of market division by allocating customers and specific types of edible fats and oils to each other. The Commission found that the two competitors reached an agreement that precluded Sime Darby from supplying customers with margarine pack sizes that were less than 15kg, such that Sime Darby could have no presence in the retail sector of the market for margarines where Unilever is active. In respect of edible oils, the agreement stipulated that Sime Darby would only produce pack sizes of edible oils equal to or greater than 25L which only industrial customers would be interested in purchasing.

As part of settlement, Sime Darby has agreed to pay an administrative penalty of R35 m and to invest R135 m to build and commission a new packaging and warehousing facility in order to package and store its edible fats and oil. This facility will ensure that Sime Darby has the ability to enter the market of supplying small pack size edible fats and oils to retail customers in competition with Unilever. Sime Darby has also undertaken to use the services of a BEE distributor to undertake some of its distribution requirements. This will ensure that Sime Darby's reliance on its potential competitors for distribution of its products comes to an end. Once the new packaging and warehousing facility is operational, the BEE distributor will transport some of Sime Darby's edible fats and oils from this facility.

"This cartel is more harmful because it denied end consumers choice of edible oils and fats at the retailers' shelves and the benefit of lower prices. We are happy now that Sime Darby Hudson has owned up and committed to enter the market to supply retailers with edible oils and fats in competition with Unilever", says the Commissioner of the Competition Commission, Tembinkosi Bonakele.

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