



**competition commission**  
*south africa*

MEDIA RELEASE

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**Sole supplier of surface fluorination services in SA to end exclusivity agreements,  
following Competition Tribunal decision**

On 7 December 2016, the Competition Tribunal confirmed as an order a consent agreement between the Competition Commission (the Commission) and Pelchem SOC Limited (Pelchem) in which Pelchem agreed to remove exclusivity clauses in the agreements it entered with firms it provides with surface fluorination for various uses. The consent agreement ensures that surface fluorination services in South Africa are 'opened up' and no longer restricted through exclusivity agreements by Pelchem, the sole supplier in South Africa.

Pelchem is a state-owned company that is a subsidiary of the Nuclear Energy Corporation of South Africa and supplies, among other products, surface fluorination services. Surface fluorination is mainly applied to strengthen plastic products such as containers (for example, agricultural chemicals, petrochemicals, paint, automotive fuels and food products), pipes for the petrochemical industry (for example, underground pipes in fuel service stations) and electric cables.

In terms of this order, Pelchem, the monopoly supplier, has undertaken to remove exclusivity restrictions and evergreen duration from its current and future surface fluorination contracts in respect of high density polyethylene (HDPE) pipes, fuel tanks, HDPE and polypropylene (PP) pails/buckets and electric cables. Subsequently, any customer can now approach Pelchem to procure surface fluorination services without any exclusivity restrictions.

"The order marks the end of the anti-competitive exclusive and evergreen agreements that Pelchem entered into with various manufacturers for surface fluorination of products such as HDPE pipes and electric cables. The removal of the exclusivity clauses will significantly open up access to surface fluorination which has been a significant barrier to manufacturers in the affected markets", said Hardin Ratshisusu, Deputy Commissioner.

## **Background**

Following from a complaint lodged in December 2013 by Colvic Petroleum Products (Pty) Ltd and Colvic Marketing & Engineering (Pty) Ltd, both engineering firms, the Commission found that Pelchem is the sole supplier of fluorination services in South Africa. This includes the fluorination of plastic products such as polyethylene pipes.

The Commission found that Pelchem had concluded certain evergreen contracts with firms for the fluorination of certain plastic products. These contracts provided that Pelchem could only fluorinate a certain type of plastic product for that contracting party on an exclusive basis. The Commission found that such exclusivity excluded other firms from accessing Pelchem's fluorination services, which resulted in harm to competition taking into account that Pelchem is the sole provider of such fluorination services.

To address the concerns in the complaint, the Commission and Pelchem have concluded an agreement, in terms of which Pelchem will remove such exclusivity provisions from its current contracts and has undertaken not to conclude fluorination service contracts on an exclusive basis with any firm going forward.

The Tribunal's Order may be found online at [www.comptrib.co.za](http://www.comptrib.co.za)

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### **For more information, please contact:**

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