



competition commission
south africa

Media Statement
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Competition Commission charges Unilever South Africa (Pty) Ltd for cartel conduct

The Competition Commission (Commission) has referred to the Competition Tribunal for prosecution a cartel case against Unilever South Africa (Pty) Ltd (Unilever) and Sime Darby Hudson Knight (Pty) Ltd (Sime Darby).

This follows the investigation by the Commission which found that Unilever and Sime Darby divided markets by allocating specific types of products and customers goods in the market for the manufacturing and supply of bakery and cooking products throughout South Africa. This conduct contravene section 4(1)(b)(ii) of the Competition Act.

The Commission's investigation found that from at least 2004 to 2013 Unilever and Sime Darby entered into a Sale of Business agreement, which contained a clause in terms of which they agreed not to compete with each other in respect of certain pack sizes of margarine and edible oils.

In terms of the non-compete clause, Unilever and Sime Darby agreed that:

- Sime Darby would not supply industrial customers with margarine pack sizes that were less than 15kg;
- Sime Darby would not supply to retail sector of the market where Unilever is active;
- Sime Darby would not supply retail customers with its Crispa branded edible oils;
- Sime Darby would only produce and supply 25 litre pack size of edible oils, which it would supply to industrial customers exclusively; and
- Unilever would not supply industrial customers with its Flora branded edible oils.

Sime Darby settled with the Commission in 2016. The Commission is seeking an order from the Competition Tribunal declaring that Unilever and Sime Darby contravened Section 4(1)(b)(ii) of the Competition Act as well as an order declaring Unilever liable for payment of an administrative penalty equal to 10% of its annual turnover.

“Food and agro-processing is an important focus area for the Competition Commission, and we are determined to root out exploitation of consumers by cartels that are so prevalent in this sector,” said the Commissioner of the Competition Commission, Tembinkosi Bonakele.

BACKGROUND

- It is alleged that in 2004 when Unilever sold its refinery business to Sime Darby, the parties concluded a Sale of Business Agreement which detailed an arrangement to divide markets by allocating specific types of goods and customers in contravention of section 4(1)(b)(ii) of the Act;
- In 2014, the Commission received a search warrant from the High Court of South Africa, Gauteng Division, Pretoria and KwaZulu-Natal, Pietermaritzburg, for a search warrant to enter and seize information, documents, data and records from the premises of the respondents.
- The Commission subsequently conducted a search and seizure operation at the offices of Sime Darby in Boksburg and the Unilever offices in Durban. Electronic data and hard copy documents were seized.
- Following the search and seizure operation, Sime Darby entered into settlement discussions with the Commission which culminated in the conclusion of a Consent Agreement confirmed by the Tribunal on 18 July 2016.

[ENDS]

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