

PRESS RELEASE

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Competition Commission settles milling case with Foodcorp

The Competition Commission has reached a settlement with Foodcorp of two separate cartel cases in which it admits to colluding in the pricing of wheat flour and maize meal. Foodcorp has agreed to pay an administrative penalty of R88 500 000.00 which amounts to 10% of the affected turnover of its 2010 milling division. The settlement was confirmed by the Competition Tribunal on 12 December 2012.

Foodcorp admits that it has contravened the Act, in that during the period between 1999 and 2007 it was represented in a series of meetings between it and its competitors at which agreements were reached to fix selling prices of both milled white maize as well as milled wheat products and the implementation dates of such price increases. This is conduct already admitted to by Premier Foods, Tiger Brands and Pioneer Foods.

As part of the settlement agreement, Foodcorp has committed to fully cooperate with the Commission in the prosecution of other cartel members by testifying before the Tribunal. It has further agreed to develop and implement a compliance programme in addition to the one it entered into in relation to the bread cartel.

Background

The Commission initiated the complaint regarding collusion in wheat flour in 2007 involving Tiger Brands, Pioneer Foods, Foodcorp, Premier Foods and Godrich Milling, and subsequently referred a case of cartel conduct on 15 March 2010. Only Godrich is still defending the case, which has yet to be heard by the Tribunal.

The Commission initiated the complaint regarding collusion in milled white maize meal in 2007 involving Tiger Brands, Pioneer Foods, Foodcorp, Premier Foods, Pride Milling, Progress Milling, Blinkwater Mills, Godrich Milling, TWK Milling, Keystone Milling, Westra Milling, Carolina Rollermeule, Brenner Mills, Paramount Mills, NTK Milling, Kalel Mills, Bothaville Milling and Allem Brothers. This case was referred on 31 March 2010 and has also still to be heard by the Tribunal.

Both complaints were initiated after the Commission had received a corporate leniency application from Premier, in 2007, which was subsequently corroborated by a further leniency application from Tiger.

Settlements have already been reached with Pioneer Foods, Keystone Milling and Carolina Rollermeule.

The Commission's investigations revealed that at various stages during the period 1999 to at least January 2007, cartel members held numerous meetings and held telephonic discussions in which they agreed to fix the price of both wheat and white maize products and to create uniform price lists for wholesale, retail and general trade customers. They also agreed on the timing of price increases and the implementation thereof. The agreements concluded at these meetings were used to secure coordination at both national and regional level and were mutually reinforcing. During the period between 1999 to 2007 competitors at both national and regional level namely Pioneer, Tiger, Premier, Ruto Mills, Godrich, Progress Milling, Pride Milling, Brenner Mills, Blinkwater, OTK, TWK, and Westra met to agree to the level and timing of price increases.

Foodcorp also participated in meetings of the National Chamber of Milling which were attended by firms from across all regions namely Tiger, Pride, Brenner Mills, NTK, Thuso Mills, Progress Milling and Blinkwater Milling. The Commission's findings are that, after some of those meetings, discussions were held where competitors agreed to, amongst other things, fix the selling prices and implementation dates of both wheat and maize products.

Through these price fixing arrangements, Foodcorp and its competitors prevented and/or limited price competition amongst themselves in relation to the pricing of milled wheat and white maize products

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