

Media Release

25 May 2015

Competition Commission refers four cartel cases to the Tribunal for prosecution

Today, 25 May 2015, the Commission referred four cases of collusion to the Competition Tribunal (Tribunal) for adjudication.

The **first referral** is against **Eldan Auto Body CC (Eldan) and Precision & Sons (Pty) Ltd (Precision) for alleged price fixing, market division and collusive tendering**. The two firms are Mercedes Benz certified auto body repairers and they also do auto body repair to other Original Equipment Manufacturers (OEMs) such as Jeep and Toyota. Following the launching of the investigation against Eldan and Precision in June 2014 for alleged collusive conduct, the Commission carried out search and seizure operation at the premises of the two firms.

The Commission's investigations found that from least 2011 Eldan and Precision agreed, alternatively engaged in a concerted practice, to directly or indirectly fix prices, divide the markets by allocating each other customers and tender collusively in respect of the provision of auto body repair services in contravention of section 4(1)(b)(i), (ii) and (iii) of the Act.

The arrangement between the firms was implemented through the exchange of cover quotes. They also coordinated their collusive arrangement through Vehicle Accident Assessment Centre (VAAC). VAAC is an assessment centre which renders vehicle assessment services to customers of the firms. The communications happened directly between employees of the two firms or through VAAC where some vehicles aimed for repair by the respondents were sometimes assessed.

The **second referral** is against **Tourvest Holdings (Pty) Ltd (Tourvest) and Siyazisiza Trust (Siyazisiza Trust) for collusive tendering in respect of the provision of retailing of arts, curio and crafts**. The two firms allegedly entered into an agreement and / or a concerted price to coordinate their respective bids submitted in response to a Request for Bids (RFB) issued by The Airports Company South Africa (Soc) Ltd (ACSA) in February 2013.

The Commission's investigation found that Tourvest and Siyazisiza Trust concluded a Memorandum of Understanding wherein they agreed to assist each other in the preparations of their bids for Opportunity 3, which entailed the operation of 3 retail stores for arts, crafts and curio at the International Departures Terminal Airside of OR Tambo International Airport. The conduct amount to collusive tendering in possible contravention of section 4(1)(b)(i) and (iii) of the Act.

The **third referral** is against **Dawn Consolidated Holdings (Pty) Ltd (Dawn), DPI Plastics (Pty) Ltd (DPI Plastics), Ubuntu Plastics (Pty) Ltd (Ubuntu Plastics) and**

Sangio Pipes (Pty) Ltd (Sangio), for dividing markets by allocating specific type of goods.

The Commission's investigation found that in April 2007, Dawn and Sangio entered into an agreement to divide markets by allocating solid wall or regular HDPE piping to Sangio and corrugated HDPE piping to Dawn and its subsidiaries (DPI Plastics and Ubuntu Ubuntu). This agreement contravenes section 4(1)(b)(ii) of the Act.

The agreement was sanctioned through a shareholder agreement between Dawn and Sangio. In terms of the shareholder's agreement, as of April 2007 Dawn and its subsidiaries were obliged not to manufacture any form of HDPE piping other than corrugated HDPE piping throughout the country. Another obligation entailed Dawn and its subsidiaries procuring all their South African HDPE piping requirements from the Sangio, except for corrugated HDPE piping requirements.

The *fourth referral* is against AGS Frasers International (Pty) Ltd (AGS) and JH Retief Transport CC (JH Retief) for collusive tendering in respect of two furniture removal tenders.

The referral follows the Commission's investigation, which was launched between 2010 and 2011 against 69 furniture removal companies for colluding on furniture removal tenders issued by various government departments and private sector clients.

The Commission investigation found that AGS entered into a collusive agreement with JH Retief in respect of a relocation tender issued by the South Africa Police Service (SAPS) and a relocation tender issued by Grand Palm Casino and Resort. JH Retief settled with the Commission and AGS refused to settle the two instances of collusive tendering it was involved in.

The commission referred the two instances of collusive tendering to the Tribunal and is seeking an order declaring AGS to be liable for payment of an administrative penalty equal to 10% of AGS annual turnover for each instance of collusive tendering.

Ends

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