

Press Release

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Commission appeals bread cartel penalty

The Competition Commission yesterday lodged an appeal with the Competition Appeal Court against the Competition Tribunal's earlier ruling on the administrative penalty imposed on Pioneer, for its involvement in the bread cartel.

In this case the Commission alleged that Pioneer Foods, which owns Sasko and Duens bakeries, together with Tiger Brands, Foodcorp and Premier Foods colluded to increase the price of bread. Premier was granted leniency in exchange for its cooperation with the Commission, while Tiger and Foodcorp settled their cases, admitted the conduct and paid administrative penalties.

The Commission proceeded with the case against Pioneer and asked the Tribunal to impose a penalty of 10% of the Pioneer group turnover for 2006. Following a hearing, the Tribunal found that Pioneer had indeed colluded with fellow bakeries to fix the selling price of bread and to allocate markets amongst themselves. In its finding, the Tribunal noted that cartels are the most egregious offences in competition law, that poor consumers were particularly affected and that, absent mitigating factors, cartels deserved the maximum penalty provided in law. The Tribunal also concluded that Pioneer's defence was premised on manifest falsehoods. The Tribunal then imposed a penalty of R195 million, being 10% of Pioneer Foods baking division's turnover for 2006, rather than its group turnover.

The Commission welcomes the findings of the Tribunal on the facts, namely that Pioneer had engaged in cartel behaviour, but does not believe that the criteria prescribed by the Tribunal to determine the penalty are appropriate to deter cartel behaviour.

"While the Tribunal judgment appropriately castigates this cartel behaviour, we are not happy with the manner in which it calculated the penalty. Administrative fines must be set at levels that effectively deter anti-competitive behaviour. We believe that the precedent set by this ruling will negatively affect the Commission's ability to set effective fines in future cases" says Commissioner Shan Ramburuth.

The Commission has asked the appeal court to reverse the Tribunal's finding on the penalty and impose a penalty of 10% of Pioneer's group turnover, which would amount to approximately R1,5bn.

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Further info:

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