

Media Release

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Aveng settles mining roof bolts cartel with a R21 million fine

The Competition Commission has entered into a settlement agreement with Aveng (Africa) Ltd, trading as Duraset ("Duraset") in which it admits that it took part in the mining roof bolts cartel. Duraset has agreed to pay a penalty of R21 900 000 representing 5% of its 2008 annual turnover.

The agreement follows the Commission's referral of its cartel activity findings against Duraset, RSC Ekusasa Mining (Pty) Ltd (RSC), Dywidag-Systems International (Pty) Ltd ("DSI") and Videx Wire Products (Pty) Ltd ("Videx") to the Tribunal for adjudication on 30 September 2009, in which it asked the Tribunal to levy an administrative penalty of 10% on the annual turnover of three of the firms. The referral excluded RSC, a subsidiary of Murray & Roberts Steel, which was granted conditional immunity following its leniency application.

In terms of the settlement, Duraset admits that it was involved in collusive tendering and entered into agreements, arrangements and understandings with RSC, DSI and Videx to divide the markets.

It has further agreed to refrain from engaging in this conduct and to continue with the implementation of a compliance programme that was developed and implemented following a consent agreement that Aveng entered into with the Commission in relation to its other subsidiary Infraset, which was involved in collusion in the concrete pipes, culverts and manholes market to prevent further contraventions of the Competition Act.

The Commission has filed an application for the confirmation of this settlement agreement with the Tribunal.

This case was initiated following information received from RSC in a leniency application on 26 September 2008. RSC was the first among the cartel members to come forward and admit it had colluded with its competitors. Subsequently, Duraset attempted to apply for leniency, but this was rejected since conditional leniency had already been granted to RSC in respect of the conduct.

The Commission's investigation revealed that the cartel may have started during the 1990's and was resuscitated around 2002 when DSI entered the market with prices considered by its competitors as "exceptionally low and unsustainable". This resulted in a price war, after which the respondents arranged to meet and discuss ways to coordinate their conduct in the supply of mining roof bolts. Over an extended period of time the respondents agreed not to sell to "each other's customers" and under the guise of an industry association, each member was allocated 25% of market share. These cartel members had agreements to allocate customers and products and also to collude on tenders until 2008.

Mining roof bolts are used to provide roof and wall support in underground mines to prevent cave-ins and to keep a mine accessible over extended periods of time.

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