

Media Release

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Scrap merchants to face collusion charges in Tribunal

The Competition Commission referred a collusion case against 13 scrap merchants in the markets for the supply of ferrous and non-ferrous scrap metal to the Tribunal on 24 August 2010.

The merchants face allegations that they colluded to set prices, divide the markets, and fix trading conditions. This was done through various agreements, arrangements and understandings amongst the respondents.

The Commission's investigation was initiated on 11 August 2006 following allegations of exclusive dealing, price fixing, fixing of trade conditions, market allocation and collusive tendering in relation to ferrous and non-ferrous scrap metal.

The scrap merchants facing these allegations include SA Metal and Machinery (Pty) Ltd ("SAM"), National Scrap Metal (Pty) Ltd ("NSM"), Ben Jacobs Metals (Pty) Ltd ("Ben Jacobs Metals"), Power Metals Recyclers (Pty) Ltd ("PMR"), Universal Recycling (Pty) Ltd ("Universal"), Ton Scrap (Pty) Ltd ("Ton Scrap"), Scaw South Africa (Pty) Ltd ("Rand Scrap"), Scaw Metals Group (Pty) Ltd ("Scaw"), Amalgamated Scrap Metals Recycling CC ("AMR"), Abbedac Metals (Pty) Ltd ("Abbedac"), Ben Jacobs Iron and Steel (Pty) Ltd ("Ben Jacobs Iron and Steel"), Cape Town Iron and Steel Works (Pty) Ltd ("Cisco") and The New Reclamation Group (Pty) Ltd ("Reclam").

In an agreement concluded between Reclam, SAM and NSM in October 2000, these parties agreed to divide the market and fix trading conditions in respect of both ferrous and non-ferrous scrap metal for a period of five years which was renewable for a further five year period. Through this agreement the participants allocated customers, suppliers, territories and type of goods (either ferrous or non-ferrous scrap).

Reclam, Universal, Ton Scrap, Ben Jacobs Iron and Steel and Rand Scrap agreed to fix prices by developing a pricing formula and agreeing on its adjustment together with the large scrap consumers. This was facilitated through meetings, e-mail & telephonic discussions, and arrangements between employees of large scrap merchants and large scrap consumers. In addition, they divided the markets by allocating suppliers and agreeing not to poach each others' suppliers and scrap generators.

In another agreement Reclam, PMR and/or Ben Jacobs Metals and SAM agreed to fix prices and divide the market in respect of non-ferrous scrap metal.

All of the respondents are involved in the collection, processing and supply of scrap metal.

The Commission has asked the Tribunal to impose an administrative penalty of 10 percent of annual turnover on each of the firms involved, except PMR, Cisco, Scaw, Rand Scrap and

Reclam. Scaw and Rand Scrap were granted conditional immunity from prosecution by the Commission provided that they fully co-operate in the Commission's investigation and prosecution of this case. Reclam and PMR settled with the Commission prior to the referral and the settlement agreements were confirmed by the Tribunal on 7 May 2008 and 14 July 2010 respectively. No relief is sought against CISCO in these proceedings as it is implicated in the restrictive supply agreement concluded with NSM.

ENDS

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