



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CR190Oct17/SA225Dec18

In the matter between:

The Competition Commission

Applicant

And

Bidvest Media (Pty) Ltd

Respondent

Panel : Y Carrim (Presiding Member)
M Mazwai (Tribunal Member)
I Valodia (Tribunal Member)

Heard on : 06 February 2019

Decided on : 06 February 2019

Settlement Agreement

The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Bidvest Media (Pty) Ltd annexed hereto marked "A".

**Presiding Member
Ms Yasmin Carrim**

06 February 2019
Date

Concurring: Ms Mondo Mazwai and Prof. Imraan Valodia

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA
(HELD IN PRETORIA)

CT Case No: CR190OCT17/SA225Dec18

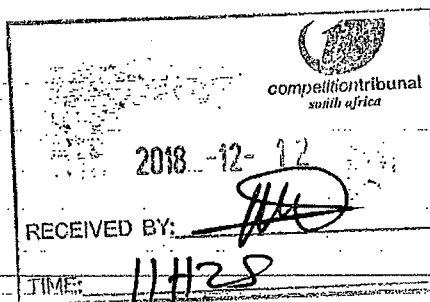
CC Case No: 2015DEC0705

In the matter between:

THE COMPETITION COMMISSION

And

BIDVEST MEDIA (PTY) LTD



Applicant

Respondent

CONSENT AGREEMENT BETWEEN THE COMPETITION COMMISSION AND
BIDVEST MEDIA (PTY) LTD T/A MSC SPORTS IN REGARD TO ALLEGED
CONTRAVENTION OF SECTION 4(1)(b)(i) OF THE COMPETITION ACT, 89 OF 1998,
AS AMENDED.

Preamble

The Competition Commission and Bidvest Media (Pty) Ltd t/a MSC Sports ("MSC Sports")
hereby agree that application be made to the Tribunal for the confirmation of this Consent
Agreement as an order of the Tribunal in terms of section 49D read with section
58(1)(a)(iii) and 58(1)(b) of the Competition Act, No. 89 of 1998, as amended ("Act"), in
respect of contraventions of section 4(1)(b) (i) of the Act, on the terms set out below.

1. Definitions

For the purposes of this Consent Agreement, the following definitions shall apply:

- 1.1 **"Act"** means the Competition Act, 1998 (Act No. 89 of 1998), as amended;
- 1.2 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act, with its principal place of business at Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.3 **"Commissioner"** means the Commissioner of the Competition Commission, appointed in terms of section 22 of the Act;
- 1.4 **"Complaint"** means the complaint initiated by the Commissioner in terms of section 49B(1) of the Act under case number: 2015Dec0705;
- 1.5 **"Consent Agreement"** means this agreement duly signed and concluded between the Commission and MSC Sports;
- 1.6 **"MSC Sports"** means Bidvest Media (Pty) Ltd, a private company duly registered and incorporated in accordance with the laws of the Republic of South Africa, with its principal place of business situated at Suite 310, 3rd Floor Left, Killarney Mall

Office Towers, 60 Riviera Road, Killarney, Gauteng;

- 1.7 **"Parties"** means the Commission and MSC Sports;
- 1.8 **"Respondents"** means all the firms that are cited as the respondents (including MSC Sports) in the Commission's complaint referral filed under Competition Tribunal Case number: CR190Oct17.
- 1.11 **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act, with its principal place of business at Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. COMMISSION'S INVESTIGATION AND FINDINGS

- 2.1 On 14 December 2015, the Commissioner initiated a complaint against the Respondents in terms of section 49(B)(1) of the Act for alleged price fixing and/or fixing of a trading condition when negotiating transfer fees on behalf of football players and coaches, in contravention of section 4(1)(b)(i) of the Act.
- 2.2 The allegations against the Respondents are that:
- 2.2.1 From at least 2003 to date, the Respondents have an agreement and/or engaged in a concerted practice to fix the price and/or trading conditions in

contravention of section 4(1)(b)(i) of the Act.

2.2.2 The Respondents fixed the commission charged to football players and coaches at 10% for negotiating and concluding new contracts, transfer contracts, and renewal contracts with football clubs.

2.2.3 The Respondents also fixed the commission charged to football players and coaches at 20% for negotiating and concluding commercial contracts on their behalf.

2.2.4 The Commission found that the above mentioned practices by the Respondents gave rise to a restriction of competition amongst competing Respondents in that they did not independently determine an element of a price in the form of discount or trading terms. These practices amount to price fixing and the fixing of trading conditions in contravention of section 4(1)(b)(i) of the Act.

3. THE COMMISSION'S REFERRAL

3.1 Following its investigation, the Commission concluded that the conduct by MSC Sports and the implicated Respondents constituted a contravention of section 4(1)(b)(i) of the Act, in that they engaged in a conduct referred to in paragraph 2 above.

3.2 In light of these findings, the Commission decided to refer the complaint on 28 September 2017 to the Tribunal for determination. The complaint was finally referred to the Tribunal on 10 October 2017.

4. AGREEMENTS

4.1 Admissions

MSC Sports admits that it engaged in the conduct set out in clause 2 above in contravention of section 4(1)(b)(i) of the Act.

4.2 Future conduct

4.2.1 MSC Sports agrees and undertakes to fully co-operate with the Commission in relation to the prosecution of any other respondent who is the subject of its investigations and referral to the Tribunal. Without limiting the generality of the foregoing, MSC Sports specifically agrees to:

4.2.1.1 Testify before the Tribunal regarding the conduct and events forming the factual basis of the Commission's referral affidavit and which are covered by this Consent Agreement;

4.2.1.2 To the extent that it is in existence, provide evidence, written or otherwise, which is in its possession or under its control, concerning the alleged contraventions set out in the

Commission's referral affidavit;

4.2.1.3 Desist from engaging in the conduct complained of;

4.2.2 MSC Sports agrees that it will in future refrain from engaging in a cartel conduct which may lead to a possible contravention of section 4(1)(b) of the Act.

4.2.3 MSC Sports will attend a competition law compliance training programme incorporating corporate governance to be provided by the Commission and designed to ensure that its employees, management, directors and agents does not engage in future contravention of the Act.

4.2.4 MSC Sports will ensure that such training materials will be made available to all new employees joining MSC Sports.

4.2.5 Furthermore, MSC Sports will update and repeat such training materials annually to ensure on an ongoing basis that its employees, management, directors and agents do not engage in any future contraventions of the Act.

5. Administrative penalty

5.1. MSC Sports agrees that it is liable to pay an administrative penalty in the sum of R90 013.17 (**Ninety Thousand and Thirteen Rands and Seventeen Cents.**) This

amount is less than 10% of its annual turnover for the financial year ended 30 June 2016.

5.2 MSC Sports shall pay the abovementioned amount to the Commission within 30 (thirty) days of the confirmation of this consent agreement as a consent order by the Tribunal.

5.3 This payment shall be paid into the Commission's bank account, details of which are as follows:

Name:	The Competition Commission Fee Account
Bank:	Absa Bank, Pretoria
Account Number:	4087641778
Branch Code:	323 345
Ref:	2015Dec0705/MSC Sports

5.4 The Commission will pay this sum to the National Revenue Fund in terms of section 59(4) of the Act.


6. Full and final settlement

This agreement, upon confirmation as an order by the Tribunal, is entered into in full and final settlement and concludes all proceedings between the Commission and

MSC Sports relating to any alleged contravention of the Act that is the subject of the Commission's investigation by MSC Sports (under CC Case number: 2015Dec0705).

Dated and signed at McKlrose on the 20 day of November 2018

For MSC Sports

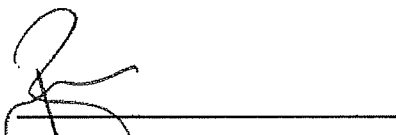


Managing Director

Name In Full: Neil Thakulowtze

Dated and signed at Pretoria on the 7th day of December 2018

For the Commission



Tembinkosi Bonakele

Competition Commissioner

