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**OUTCOME OF TRIBUNAL HEARINGS FOR WEDNESDAY, 23 AUGUST**

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| --- | --- | --- | --- |
| Type of matter | Parties involved | Competition Commission recommendation to Tribunal | Tribunal decision |
| Settlement agreement | Competition Commission And Association of Electric Cable Manufacturers South Africa | Confirm settlement agreement | Decision pending  |
| Large merger  | Libstar Operations (Pty) And Khoisan Tea Import and Export (Pty) Ltd | Approve without conditions | Approved without conditions |

**The Tribunal awaits further documents in wire cable industry association settlement agreement matter**

The Tribunal is awaiting an addendum to a settlement agreement involving the Association of Electric Cable Manufacturers South Africa (AECMSA). AECMSA has admitted to its involvement in fixing the selling price of electric power cables. Customers affected were primarily Eskom, large industry and municipalities.

The addendum is intended to provide clarification of terminology in the settlement agreement.

The Commission is asking the Tribunal to approve an administrative penalty of R14 853.67, 1% of AECMSA’s membership fees for 2010, as the association has no turnover.

Some members of the association have paid administrative penalties related to their involvement in cartel activity in the market for the supply of electric cables. Aberdare Cables was granted conditional corporate leniency on 5 March 2012 as part of the investigation into activity undertaken by firms in the sector. Malesela Taihan Electric Cable has paid an administrative penalty of R20.2m, ATC (Pty) Ltd agreed to pay R80.74 million and South Ocean Holdings an R13.3m administrative penalty.

On 16 March 2010, the Commission initiated a complaint against Abedare Cables, Tulisa Cables, Alvern Cables and South Ocean Electric Wire Company for possible cartel activity in the market for the supply of electric cables. For the purpose of this consent order, high voltage electric cables are excluded.

On 28 May 2010, the complaint was later amended to include more electric cable manufactures and AECMA. The manufacturers named in the complaint referral are: Alvern Cables, South Ocean Electric Wire Company, Tulisa Cables, Alcon Marepha, CBI-Electric: African Cables, Phoenix Power Cables, Cabcon Technologies, Silcom, Malesela Taihan Electric Cable, Kewberg Cables & Braids, Norco Cables and Aberdare Cables and AECMSA.

In its complaint referral, the Commission alleges that suppliers of electric cables agreed on input prices or costs in respect of raw material input products necessary for the manufacturing of power cables. The Commission further submits that the alleged conduct pre-dates the Competition Act and endured until August 2012.

The Commission further alleges that a pricing formula was used by AECMA to calculate the prices of electric power cables; based on indicators of inputs such as copper, lead, aluminium, fully galvanised wire, polyethylene, rubber and silicone, among other materials. The prices of these inputs fluctuate on a monthly basis and were used when quoting for long-term and short-term or tender contracts issued by various tender customers.

**Merger between Libstar Operations and Khoisan Tea Import and Export approved**

The Tribunal has approved a merger between Libstar Operations and Khoisan Tea Import and Export without conditions.

Libstar Operations is a holding company controlled by private equity firms, with interests in firms that manufacture, import and distribute fast moving consumer goods in the food and beverage households and personal care.

The primary target firm is the tea and manufacturing and supply business, Khoisan Tea Business, of Khoisan Tea Import and Export Pty Ltd. Post-merger Libstar will control the Khoisan Tea Business.

The Khoisan Tea Business supplies natural and organic speciality teas and a variety of spices. Khoisan Tea Business provides tea products under its own tea brand and its business is primarily focussed on the export market, and the local market to a lesser extent.

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