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**OUTCOME OF CASES - TRIBUNAL ROLL FOR WEDNESDAY, 13 JULY 2016**

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| Type of matter | Parties involved | Competition Commission’s recommendation to Tribunal |
| Large merger | AFGRI Operations Limited and Pride Milling Company (Pty) Limited | Approved with conditions |
| Consent agreement | Competition Commission and Eukor Car Carriers Inc. | Confirmation of consent agreement |
| Settlement agreement | Competition Commission And WBHO Construction (Pty) Ltd | Confirmation of settlement agreement |
| Settlement agreement  | Competition Commission And Delatoy Investments (Pty) Ltd; Delatoy Group Holdings (Pty) Ltd; ATPD Properties (Pty) Ltd; Dream World 344 (Pty) Ltd; Dream World 345 (Pty) Ltd; Patrick Donovan Delamere NO; Francois Koch NO; Tonya Elizabeth Delamere NO; Andrew David Toy NO; Patrick James Rowan Toy NO; Hilton Somah Gordon NO | Confirmation of settlement agreement |
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**AFGRI buys Pride Milling Company**

The Competition Tribunal has approved, with conditions, the merger between **AFGRI Operations Limited** (AFGRI) and **Pride Milling Company (Pty) Ltd** (Pride Milling).

AFGRI, the buyer in this transaction, is ultimately controlled by AgriGroupe Investments LP, but the South African transaction relates to companies incorporated and operate in South Africa offering a range of products namely: AFGRI Agri Services, AFGRI Financial Services, AFGRI Food and AFGRI Investments.

AFGRI Agri Services comprises of divisions that focus on the maize value chain, from land preparation, seeds and other inputs, harvesting, grain procurement and storage.

Pride Milling, on the other hand, is owned by two individuals and owns three white maize milling plants. It also operates a food and feed facility that manufactures a range of grains, beans and pulse related products.

The transaction is to be implemented in two phases, the initial involves AFGRI acquiring a percentage of the shares, and the second phase will see AFGRI acquire the remainder. It was agreed that the merging parties will notify the Commission if they implement the Tranche B sale on or before the effective date, or if the Tranche B sale is implemented after the effective date.

**Tribunal confirms Eukor Car Carriers R15m fine**

The Tribunal has confirmed the consent agreement between shipping transportation company **Eukor Car Carriers Inc** and the Competition Commission.

The administrative penalty imposed on Eukor is R15 288 976. Some other companies operating in the market have already reached agreements with the Commission.

The companies are involved in the transportation of vehicles, equipment and or machinery, including new and used vehicles, as well as new and used rolling construction and agricultural machinery by sea to and from South Africa.

Eukor was involved in price fixing, collusive tendering and market division from 2007 up to and including 2012 in contracts involving: BMW South Africa; Volkswagen AG and Volkswagen of South Africa; Nissan Motor Corporation; Volvo Construction Equipment; two charges against Volvo Construction Equipment; Daimler Motor Co Ltd and Maruti Suzuki.

**Immunity for WBHO in 10 projects**

The Competition Tribunal has confirmed a settlement agreement between Wilson Bayley Homes-Ovcon Ltd (WBHO) and the Competition Commission.

WBHO has been granted immunity from an administrative penalty in relation to its participation in a number of prohibited practices in contravention of section 4(1)(b)(iii) of the Act. The settlement has been delayed some time because of disagreement between WBHO and the Commission over the wording of the consent order.

The settlement agreement relates to collusive tendering in the construction industry, in which parties submitted cover prices with a view to allocate projects.

WBHO entered into negotiations with the Commission in order to settle the matter. As part of its settlement, WBHO has agreed not to engage in further prohibited practices and has amongst other things, implemented a competition law compliance programme to ensure that its employees, management, directors and agents do not engage in any future contraventions of the Act.

**Delatoy Group and others to pay R4m settlement fine**

The Tribunal has confirmed a settlement agreement involving the **Delatoy Group** and related individuals and companies, who along with Cycad and Phambili, were involved in cartel conduct in the market for the construction of steel pipelines.

This matter followed the Commission’s referral of a complaint to the Tribunal in February 2015 relating to the Thabazimbi Pipeline Project in Limpopo. In this matter Cycad is the leniency applicant, and Phambili Pipelines settled with the Commission in August 2014.

Delatoy Investments is a wholly-owned subsidiary of Delatoy Holdings. ATPD and Delatoy Holdings are both jointly controlled by Dreamworld 344 and Dreamworld 345, meaning they each hold 50% in ATPD and Delatoy Holdings. Dreamworld 344 is wholly-owned by the P.D.D Family Trust, whilst Dreamworld 345 is wholly-owned by the Andrew Toy Family Trust. All these companies form part of a group of companies that are jointly controlled by the two family trusts, which in turn hold investments for the Delamere and Toy families. The remainder of the respondents comprise of the trustees of the P.D.D Trust and Andrew Toy Family Trust.

Phambili, Cycad and Delatoy Investments (then trading as Shearwater Construction), were invited to submit bids for the pipeline project and agreed that the winner would pay a losers’ fee to the successful bidders, inflating their bids to cover the fee. The loser’s fee was, however, paid to ATPD and not Shearwaters Construction.

Delatoy initially brought an action questioning whether it could be considered a company, and the Tribunal found that it was a company.

Delatoy Group, which comprises of companies and individuals have agreed to pay a collective penalty of R4 136 122,02.

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