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**Pipe manufacturers found to have colluded to divide up SA markets**

The Competition Tribunal has found that two manufacturers of regular high density polyethylene (HDPE) pipes -- Dawn Consolidated Holdings, through its subsidiary DPI Plastics Proprietary Ltd, and Sangio Pipes Proprietary Ltd -- colluded between 2007 and 2012 to divide up the markets.

On 25 May 2015, the Competition Commission referred a case of collusion against various pipe manufacturers to the Competition Tribunal for adjudication in terms of s50(1) of the Competition Act, No 89 of 1998 (Act).

The Commission alleged that in April 2007, Dawn and Sangio concluded a shareholders’ agreement, in terms of which, Dawn through DPI Plastics undertook not to manufacture regular HDPE pipes, but only corrugated pipes, throughout South Africa.

Moreover, Dawn and its subsidiaries were further obliged to purchase all of their HDPE piping (other than corrugated HDPE piping) requirements directly from Sangio.

The Tribunal found that the shareholders’ agreement had the effect of dividing the market for the manufacture of regular HDPE pipes, in contravention of s4(1)(b)(ii) of the Competition Act.

In its decision the Tribunal said: “It is apparent, on a plain reading of clause 20, that Dawn had undertaken not to manufacture HDPE piping (other than corrugated pipes) in the entire Republic of South Africa, for as long as it or its associates held shares in Sangio. Dawn also undertook to procure all its South African HDPE piping (other than corrugated pipes) from Sangio.

“The purpose of the clause was clearly to keep Dawn out of the market for the manufacture of regular HDPE piping (at a national level).”

A hearing will later be held regarding the remedies to be imposed on the companies concerned.

Issued by:

Chantelle Benjamin

Communications: Competition Tribunal

Tel (012)394 1383

Cell: +27 (0) 73 007 5603

Twitter: @comptrib

E-Mail: [chantelleb@comptrib.co.za](file:///C:\Users\AlistairV\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\HMBET88G\chantelleb@comptrib.co.za)

On Behalf Of:

Lerato Motaung

Registrar: Competition Tribunal

Tel: (012) 394 3355

Cell: +27 (0) 82 556 3221

E-Mail: [LeratoM@comptrib.co.za](mailto:LeratoM@comptrib.co.za)