



**competitiontribunal**  
SOUTH AFRICA

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No: CR086Aug19/SA025May22**

In the matter between:

Competition Commission of South Africa

**Applicant**

And

Bhubesi Fire Projects (Pty) Ltd

**Respondent**

Panel: Y Carrim (Presiding Member)  
I Valodia (Tribunal Member)  
A Ndoni (Tribunal Member)

Heard on: 20 May 2022

Decided on: 20 May 2022

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**Settlement Agreement**

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The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Bhubesi Fire Projects (Pty) Ltd annexed hereto.

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**Presiding Member  
Ms Yasmin Carrim**

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**20 May 2022**  
**Date**

**Concurring: Prof Imraan Valodia and Ms Andiswa Ndoni**

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

**CT CASE NO: CR086AUG19  
CC CASE NO: 2017JUL0013**

In the matter between:

**COMPETITION COMMISSION OF SA**

**Applicant**

And

**Bhubesi Fire Projects (Pty) Ltd**

**Respondent**

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**CONSENT AGREEMENT IN TERMS OF SECTION 49D READ WITH SECTION 58(1)  
(b) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED, BETWEEN THE  
COMPETITION COMMISSION AND BHUBESI FIRE PROJECTS (PTY) LTD, IN  
RESPECT OF A CONTRAVENTION OF SECTION 4(1)(b)(II) OF THE COMPETITION  
ACT 89 OF 1998**

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**Preamble**

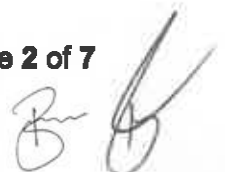
The Competition Commission ("Commission") and Bhubesi Fire Projects (Pty) Ltd ("Bhubesi") hereby agree that an application be made to the Competition Tribunal for the confirmation of this Consent Agreement as an order of the Tribunal in terms of section 49D read with section 58(1)(b) of the Competition Act no. 89 of 1998, as amended, in respect of a contravention of section 4(1)(b)(ii) of the Act.



## 1. DEFINITIONS

For the purposes of this consent agreement the following definitions shall apply

- 1.1 **"Act"** means the Competition Act No. 89 of 1998, as amended.
- 1.2 **"ASIB"** Automatic Sprinkler Inspection Bureau (Pty) Ltd a private company duly incorporated in accordance with the laws of the Republic of South Africa, with its principal place of business situated at 1407 Cnr Louis Botha and Tudhope Avenue, Houghton Estate, Johannesburg.
- 1.3 **"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 1st Floor, Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.
- 1.4 **"Commissioner"** means the Commissioner of the Competition Commission (the Commissioner) in terms of section 24(1) of the Act.
- 1.5 **"Investigation"** means investigation of the Complaint.
- 1.6 **"Complaint"** means the complaint initiated by the Commissioner on 5 July 2017 in terms of section 49B(1) of the Act under case number 2017Jul0013.
- 1.7 **"Complaint Referral"** means the complaint referred by the Commission to the Tribunal under case number CR086Aug19.
- 1.8 **"Consent Agreement"** means this agreement duly signed and concluded between the Commission and Bhubesi.
- 1.9 **"Bhubesi"** means Bhubesi Fire Projects (Pty) Ltd, a private company, duly incorporated in accordance with the laws of the Republic of South Africa, with



its principal place of business situated at Northlands Deco Park, No. 40 Avant-Garde Avenue, New Market Road, Northriding.

- 1.10 **“Parties”** means the Commission and Bhubesi.
- 1.11 **“Listed Installers”** means fire protection service providers registered with ASIB.
- 1.12 **“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 the 1<sup>st</sup> Floor, Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

## **2. THE COMMISSION’S INVESTIGATION AND FINDINGS**

- 2.1 On 05 July 2017, the Commissioner initiated a complaint in terms of section 49B of the Act against Automatic Sprinkler Inspection Bureau (“ASIB”) and all sprinkler installers registered with ASIB. This complaint is being investigated under case number 2017Jul0013.
- 2.2 On 03 August 2017, the Commission conducted a search and seizure operation at the premises of ASIB and 22 of its Listed Installers, including the premises of Bhubesi and seized documents and electronic data from these premises.
- 2.3 On 16 August 2019, the Commission filed the Complaint Referral, citing certain Listed Installers as respondents. Bhubesi was cited as the 3<sup>rd</sup> Respondent.
- 2.4 The allegations against ASIB and its Listed Installers, including Bhubesi, are that they agreed to allocate to each other specific services in terms of which ASIB would provide inspection and certification services while the Listed Installers, including Bhubesi would provide automatic sprinkler installation services.



**2.5** It is further alleged that the Listed Installers agreed and were prohibited from conducting business in territories (provinces/regions) which they are not listed in and that they should only conduct business in territories (provinces/regions) where they are listed / registered.

**2.6** The Investigation revealed the following:

**2.6.1** On becoming a Listed Installer of ASIB, each of the Listed Installers agreed to adhere to ASIB rules which dictate that inspection services would be performed by ASIB only whilst the Listed Installers would provide installation services only.

**2.6.2** The ASIB rules enabled Listed Installers to divide the market by allocating territories in that a Listed Installer registered in a particular area is limited to render its service in its registered area.

**2.6.3** This conduct between ASIB and Listed Installers amounts to market division by allocation of specific types of services and territories in contravention of section 4(1)(b)(ii) of the Act.

### **3. ADMISSION**

**3.1.** Bhubesi does not admit that it has acted in contravention of section 4(1)(b)(ii) of the Act as described in part 2 above.

**3.2.** The Commission has agreed to enter into the Consent Agreement without an admission of liability based on a combination of the following factors:

**3.2.1.** The Commission is incentivising Bhubesi to discontinue from adhering to any ASIB rules that divide the markets, as part of its strategy to end the alleged anticompetitive conduct occasioned by these rules in the market



for installation and inspection of automatic fire sprinklers;

3.2.2. Bhubesi is a small entity which has not been found to have contravened the Act before.

#### **4. AGREEMENT REGARDING FUTURE CONDUCT**

- 4.1. Bhubesi undertakes not to agree or adhere to any ASIB rule which would preclude it from operating in any geographic region.
- 4.2. Should Bhubesi determine that it wishes to enter the market for the provision of inspection services, which is reserved for ASIB, it undertakes not to restrict its right to do so by agreeing with any actual or potential competitors in that market, or with ASIB, to restrict such activities.
- 4.3. Bhubesi undertakes not to restrict its sourcing of inspection services from only ASIB, provided it is commercially viable to do so.
- 4.4. Bhubesi will develop, implement and monitor a competition law compliance programme as part of its corporate governance policy, which is designed to ensure that all employees, members and management do not engage in contraventions of the Act. Such compliance programme will include mechanisms for the identification and prevention of any contraventions of the Act.
- 4.5. Bhubesi undertakes to submit a copy of such compliance programme to the Commission within 90 (ninety) calendar days of the date of confirmation of this Consent Agreement as an order to the Tribunal.
- 4.6. Bhubesi shall circulate a statement summarising the contents of this Consent Agreement to all management and operation staff employed by Bhubesi within 90 (ninety) calendar days from the date of confirmation of this Consent Agreement by the Tribunal.
- 4.7. Bhubesi hereby commits itself to competitive practices and refraining from



engaging in any anti-competitive conduct in contravention of the Act.

## **5. ADMINISTRATIVE PENALTY**

5.1. In order to bring the matter to conclusion, Bhubesi agrees to pay an administrative penalty in the amount of R300 000.00 (Three Hundred Thousand Rand). This amount does not exceed 10% of Bhubesi's annual turnover for the financial year ended February 2021.

5.2. Bhubesi agrees to pay the administrative penalty over a period of 12 months starting 30 calendar days from the date of confirmation of this Consent Agreement by the Tribunal.

5.3. The payment shall be made into the Commission's bank account, details which are as follows:

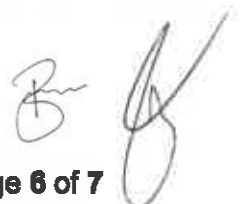
<b>Bank name:</b>	<b>Absa Bank</b>
<b>Branch name:</b>	<b>Pretoria</b>
<b>Account holder:</b>	<b>Competition Commission Fees Account</b>
<b>Account number:</b>	<b>4087641778</b>
<b>Account type:</b>	<b>Current Account</b>
<b>Branch Code:</b>	<b>632005</b>
<b>Reference:</b>	<b>2017JUL0013Bhubesi</b>

5.4. The penalty will be paid over by the Commission to the National Revenue Fund in accordance with section 59(4) of the Act.

## **6. MONITORING**

6.1. All reports in relation to conditions set out in this agreement, including but not limited to Compliance programmes, Proof of payment(s) etc. shall be submitted to the Commission at [CartelSettlements@compcom.co.za](mailto:CartelSettlements@compcom.co.za).

## **7. FULL AND FINAL SETTLEMENT**



7.1. This Consent Agreement is entered into in full and final settlement of the Commission's investigations defined in the definitions' clause and upon confirmation as an order of the Tribunal, concludes all proceedings between the Commission and Bhubesi relating to the conduct that is the subject of the Commission's investigation defined in the definitions' clause.

**Bhubesi Fire Projects (Pty) Ltd**



Signed and dated at Boksburg on the 17 day of May 2022.

Name In Full: GARETH HOLMDEN LONG

Designation: DIRECTOR

**For the Competition Commission**

Signed and dated at **PRETORIA** on the 18th day of May 2022.



Name In Full: **TEMBINKOSI BONAKELE**

Designation: **COMMISSIONER OF THE COMPETITION COMMISSION**

