



**competitiontribunal**  
SOUTH AFRICA

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No: CO103Aug20**

In the matter between:

The Competition Commission

**Applicant**

And

Panasonic Corporation

**Respondent**

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Panel : M Mazwai (Presiding Member)  
: E Daniels (Tribunal Member)  
: I Valodia (Tribunal Member)

Heard on : 02 September 2020

Decided on : 16 September 2020

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**CONSENT AGREEMENT**

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The Tribunal hereby confirms the consent agreement between the Competition Commission and Panasonic Corporation annexed hereto.

  
\_\_\_\_\_  
Presiding Member  
Ms Mondo Mazwai

**16 September 2020**  
\_\_\_\_\_  
Date

**Concurring: Mr Enver Daniels and Prof. Imraan Valodia**

**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA**

**(HELD IN PRETORIA)**

**CT CASE NO:**

**CC CASE NO: 2015Jun0309**

**In the matter between**

**THE COMPETITION COMMISSION**

**Applicant**

**And**

**PANASONIC CORPORATION**

**Respondent**

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**FILING SHEET**

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**BE PLEASED TO TAKE NOTICE** that the applicant hereby files the settlement agreement concluded between the Competition Commission and Panasonic Corporation.

Signed at \_\_\_\_\_ on the 24 day of August 2020

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Competition Commission

The Dti Campus, Building C, Mulayo

77 Meintjies Street

Tel: 086 662 8233

Email: [khomotsom@compcom.co.za](mailto:khomotsom@compcom.co.za)

**Ref: Khomotso Hlongoane/2015Jun0309**

TO:

**THE REGISTRAR**

Competition Tribunal of South Africa

The Dti Campus, 77 Meintjies Street,

1<sup>st</sup> Floor, Block C, Mulayo Building

Sunnyside, Pretoria

Tel: 012 394 3300/55

Fax: 012 394 0169

E-mail: [Tebogom@comptrib.co.za](mailto:Tebogom@comptrib.co.za)

AND TO:

**Herbert Smith Freehills South Africa**

**(Panasonic Corporation)**

Rosebank Towers 4<sup>th</sup> Floor

15 Biermann Avenue

Rosebank

Johannesburg

2196

Ref: Leana Engelbrecht

Tel: 011 500 2676

**By Email:** [Leana.Engelbrecht@hsf.com](mailto:Leana.Engelbrecht@hsf.com)



## Form CT1(1)

### About this Form

- This form is issued in terms of section 50 of the Competition Act and Rules.
- This form is to be used only for a referral by the Competition Commission.
- Unless this is a consent proceeding, the respondent may answer this referral within 20 business days after being served with this referral.
- If the answer raises only a point of law, it must set out the question of law to be resolved. Any other answer must be in affidavit form, setting out in numbered paragraphs:
  - (a) a concise statement of the grounds on which the Complaint is opposed;
  - (b) the material facts or points on which the respondent relies;
  - (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.
- An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.
- Please see Competition Tribunal Rules 14 through 19.
- Form continues on Page 2.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X24  
Sunnyside  
0132  
Republic of South Africa  
tel: 27 12 394 3300  
fax: 27 12 394 0169  
e-mail: ctsa@comptrib.co.za

## Referral of Complaint by Commission

Date: \_\_\_\_\_

To: **the Registrar of the Competition Tribunal, and:**

(Name of respondent and [if applicable] other participants :)

Concerning:

(Complaint name and Commission file number:)

From: **the Competition Commission**

The Competition Commission alleges that the Respondent contravened the provisions of the Competition Act, section \_\_\_\_\_ by engaging in the following prohibited conduct:

(Concise statement of the alleged prohibited practice:)



**Form CT1(1)**  
**Page 2**  
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- An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.
- Please see Competition Tribunal Rules 14 through 19.

**Contacting  
the Tribunal**

The Competition Tribunal  
Private Bag X24  
Sunnyside  
0132  
Republic of South Africa  
tel: 27 012 3943300  
fax: 27 012 3940169  
e-mail: ctsa@comptrib.co.za

## Referral of Complaint by Commission

The Competition Commission seeks an order granting the following relief:

(Concise statement of the order or relief sought:)

This referral is to proceed as a consent proceeding.

This referral is to proceed as a contested proceeding. Attached is an affidavit setting out the grounds of this complaint, and a statement of the material facts and the points of law relevant to it, as required by Competition Tribunal Rule 15(2).

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:

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

**CT Case No:  
CC Case No: 2015Jun0309**

In the matter between:

**THE COMPETITION COMMISSION**

**Applicant**

And

**PANASONIC CORPORATION**

**Respondent**

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**CONSENT AGREEMENT IN TERMS OF SECTION 49D AS READ WITH SECTIONS 58(1)(a)(iii) and 58(1) (b) OF THE COMPETITION ACT, 89 OF 1998, AS AMENDED, BETWEEN THE COMPETITION COMMISSION AND PANASONIC CORPORATION, IN RESPECT OF CONTRAVENTIONS OF SECTION 4(1)(b) (ii) OF THE COMPETITION ACT, 1998.**

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**Preamble**

The Competition Commission and Panasonic Corporation ("Panasonic") hereby agree that 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)(a)(iii) and 58(1)(b) of the Competition Act, No. 89 of 1998, as amended, in respect of contraventions of section 4(1)(b) (ii) 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, 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 Commission, appointed in terms of section 22 of the Act;
- 1.4 **“Complaint”** means the complaints initiated by the Commissioner in terms of section 49B(1) of the Act under case number 2014OCT0569, 2014NOV0689, 2015FEB0051, 2015MAY0267, 2015MAR090 and 2015Jun0309;
- 1.5 **“Consent Agreement”** means this agreement duly signed and concluded between the Commission and Panasonic;
- 1.6 **“Denso”** means Denso Corporation (“Denso”) a company incorporated under the company laws of Japan, with its principal place of business situated at 1-1, Showa-cho, Kariya, Aichi 448-8661, Japan;
- 1.7 **“Panasonic”** means Panasonic Corporation (“Panasonic”) a company incorporated under the laws of Japan, with its principal place of business situated at 1006, Oaza Kadoma, Kadoma-shi, Osaka 571-8501, Japan;
- 1.8 **“Parties”** means the Commission and Panasonic;
- 1.9 **“Respondents”** means Panasonic and Denso;
- 1.10 **“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 The Commission has received information that suggests that Panasonic and Denso concluded a general agreement and/or were party to concerted practices to fix prices that they would quote to original equipment manufacturers ("OEMs"), divide markets and tender collusively in respect of Requests for Quotations ("RFQs") in the market for the manufacture and supply of automotive components to OEMs, both within and outside of South Africa, in contravention of sections 4(1)(b)(i), 4(1)(b)(ii) and 4(1)(b)(iii) of the Act.

2.2 The Commission's investigation against Panasonic and Denso revealed the following cartel instances:

2.2.1 On or about 2007, Panasonic and Denso agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of Clearance Sonar System (Honda NY Civic) to OEMs outside of South Africa.

2.2.2 On or about 2007 and 2008, Panasonic and Denso agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of Clearance Sonar System (Toyota:



Lexus and Prius) to OEMs outside of South Africa.

2.2.3 On or about 2006, Panasonic and Denso agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of Relays (Toyota Prius) to OEMs outside of South Africa.

2.2.4 On or about 2005, Panasonic and Denso agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of TW Sensor (Honda) to OEMs, both within and outside of South Africa.

2.2.5 On or about 1998, Panasonic and Denso were part of a group meeting called "Rokusha-kai Group Meeting" wherein they agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of Ballast and LED driver to OEMs outside of South Africa.

2.2.6 On or about 2005, Panasonic and Denso agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of Ballasts (Daihatsu) to OEMs outside of South Africa.

2.2.7 On or about 2007, Panasonic and Denso were part of a group meeting called “Nichireki Group Meeting” wherein they agreed and/or were party to a concerted practice to fix prices, divide markets and tender collusively on RFQs in the market for the manufacture and supply of Air Conditioning Products and System to OEMs outside of South Africa.

2.2.9 The conduct outlined above between Panasonic and Denso constitutes price fixing, division of markets and collusive tendering in contravention of sections 4(1)(b)(i), (ii) and (ii) of the Act

### **3 ADMISSION**

3.1 Panasonic does not admit that it contravened section 4(1)(b) of the Act. The Commission did not insist on the admission of liability due to the insignificant nature of the effects of Panasonic conduct in South Africa.

### **4. FUTURE CONDUCT**

Panasonic agrees to:

4.1 prepare and circulate a statement summarizing the contents of this Consent Agreement to its employees, managers and directors that are employed in the specific automotive parts operations of Panasonic implicated in the cartel instances listed in paragraph 2.2, above, within sixty (60) days of the date of confirmation of this Consent Agreement as an order of the Tribunal;

- 4.2 refrain from engaging in conduct in contravention of section 4 (1)(b) of the Act in future;
- 4.3 continue to implement and monitor its existing competition law compliance programme as part of its corporate governance policy, which is designed to ensure that its employees, management, directors and agents do not engage in future contraventions of the Act.;
- 4.4 submit a copy of such compliance programme to the Commission within thirty (30) days of the date of confirmation of this Consent Agreement as an order by the Tribunal; and
- 4.5 undertakes henceforth to engage in competitive practices

## 5 ADMINISTRATIVE PENALTY

- 5.1 Panasonic agrees and undertakes to pay an administrative penalty in the amount of R537 980 (**Five Hundred and Thirty Seven Thousand and Nine Hundred and Eighty Rands**). This amount does not exceed 10% of Panasonic's turnover.
- 5.2 Panasonic shall pay the abovementioned amount to the Commission within sixty (60) days from the date of confirmation of this consent agreement as an order of the Tribunal.

5.3 The administrative penalty must be paid into the Commission's bank account which is as follows:

**Name: The Competition Commission**

**Bank: Absa Bank, Pretoria**

**Account Number: 4087641778**

**Branch Code: 632005**

**Ref: 2015Jun0309-Panasonic**

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

## **6 COMPLIANCE**

All compliance reports and proof of payments relating to this matter shall be forwarded to the Commission at [CartelSettlements@compcom.co.za](mailto:CartelSettlements@compcom.co.za).

## **7 FULL AND FINAL SETTLEMENT**

This agreement, upon confirmation as an order of the Tribunal, is entered into in full and final settlement in respect of the Commission's investigation into the activities of Panasonic under case nos. 2014OCT0569, 2014NOV0689, 2015FEB0051, 2015MAY0267, 2015MAR090 and 2015Jun0309 and concludes all proceedings between the Commission and Panasonic.

Dated and signed at Yokohama City, Kanagawa Prefecture, Japan on the 19<sup>th</sup> day  
of August 2020

For Panasonic Corporation



Name in Full: Masashi Nagayasu

Position: Executive Vice President, Automotive Company, Panasonic Corporation

Dated and signed at PRETORIA on the 24<sup>TH</sup> day of AUGUST 2020

For the Commission



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Tembinkosi Bonakele  
Commissioner