



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CR049Jun19/SA188Mar25

In the matter between:

The Competition Commission

Applicant

And

Tenneco GMBH

Respondent

Panel : I Valodia (Presiding Member)
: G Budlender (Tribunal Member)
: A Ndoni (Tribunal Member)

Heard on : 26 March 2025

Decided on : 27 March 2025

Settlement Agreement

The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Tenneco GMBH annexed hereto.

**Presiding Member
Prof. Imraan Valodia**

**27 March 2025
Date**

Concurring: Adv. Geoff Budlender SC and Ms Andiswa Ndoni

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

CT Case No.: CR049Jun19

CC Case No.: 2014Nov0688

In the matter between:

The Competition Commission

Applicant

And

Tenneco GMBH

Respondent

**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 TENNECO GMBH, IN RESPECTT
OF CONTRAVENTIONS OF SECTIONS 4(1)(b)(i), (ii) AND (iii) OF THE ACT**

The Competition Commission of South Africa and Tenneco GMBH hereby agree that application be made to the Competition Tribunal for confirmation of this Consent Agreement as an order of the Competition Tribunal in terms of section 49D read with sections 58(1)(a)(iii) and 58(1)(b) of the Competition Act, No. 89 of 1998 (as amended) 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, 89 of 1998, as amended;
- 1.2. "**CLP**" means the Corporate Leniency Policy prepared and issued by the Commission pursuant to the Act, as published in the Government Notice No. 628 of 23 May 2008, in Government Gazette No. 31064 of 23 May 2008;
- 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 Commission, appointed in terms of section 22 of the Act;
- 1.5. "**Complaint**" means the complaint initiated by the Commissioner in terms of section 49B of the Act, under Case Number 2014Nov0688, on 26 November 2014;
- 1.6. "**Consent Agreement**" means this agreement duly signed and concluded between the Commission and Tenneco;
- 1.7. "**Day**" means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.8. "**Eberspächer**" means Eberspächer Exhaust Technology GMBH & Co. KG, a company duly incorporated and registered in accordance with the company laws of Germany, with its principal place of business at Homburger Str. 95, 66539 Neunkirchen, Germany;

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- 1.9. **"Emissions Control System"** means manifolds, flex pipes, catalytic converters, converters, diesel oxidation catalysts, diesel particulate filters, oxygen sensors, isolators, gaskets, clamps, resonator assemblies, pipe accessories, mufflers, muffler assemblies, and tubes. An exhaust system has a "hot end," which is the part of the exhaust system that is mounted to the engine (generally comprising the manifold and/or catalytic converter) and a "cold end," which is the part of the exhaust system that is mounted to the underbody of the car (and contains, for example, the muffler, pipes and/or the catalytic converter);
- 1.10. **"Gillet"** means Gillet Exhaust Technologies (Proprietary) Limited, a company incorporated under the laws of the Republic of South Africa with its principal place of business situated at 12 Libertas Toad, Port Elizabeth. Gillet is a wholly owned subsidiary and local head office of Tenneco in South Africa;
- 1.11. **"OEM"** means an original equipment manufacturer to whom the Respondents supplied Emissions Control Systems for use in the production of new motor vehicles;
- 1.12. **"Parties"** means the Commission and Tenneco;
- 1.13. **"Referral"** means the Referral of Complaint by the Commission to the Tribunal dated 11 June 2019;
- 1.14. **"Tenneco"** means Tenneco GMBH, a company duly incorporated and registered in accordance with the company laws of Germany, with its principal place of business at Luitpoldstrasse 83 Edenkoben, D-67483, Germany, along with its respective past and present, parents, owners, subsidiaries, affiliates, divisions, predecessors, successors, assigns, officers, directors, employees, principals, partners, members, heirs, representatives, and agents; and



- 1.15. **"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 3rd Floor, Mulayo Building (Block C), the DTIC Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. THE COMMISSION'S INVESTIGATION AND FINDINGS

- 2.1. On 26 November 2014, the Commissioner initiated a complaint against a number of motor vehicle exhaust system manufacturers, in terms of section 49(B)(1) of the Act for alleged price fixing, market division and collusive tendering in the market for supply of motor exhaust systems to OEMs worldwide, in contravention of sections 4(1)(b)(i), (ii) and (iii) of the Act.
- 2.2. This Consent Agreement relates only to those aspects of the Complaint that involve Eberspächer and Tenneco. Gillet was cited in the Complaint because it is regarded by the Commission as a wholly owned subsidiary and local head office of Tenneco in South Africa.
- 2.3. The Commission's investigation against Eberspächer and Tenneco revealed the following:
- 2.4. Eberspächer and Tenneco had engaged in a prohibited practice in contravention of section 4(1)(b) of the Act in that they reached an agreement and/or engaged in a concerted practice, as competitors, to fix prices, divide markets and/or tender collusively.
- 2.5. The Commission found that during or about 2002, an employee of Eberspächer contacted an employee of Tenneco to discuss a tender issued by an OEM and those employees agreed that each firm would pursue different workstreams covered in that tender.
- 2.6. The OEM ultimately awarded the tender to Eberspächer and Tenneco in accordance with their agreed workstream allocation.



3. TENNECO'S POSITION

- 3.1. On receipt of the Complaint and pursuant to engagement with the Commission, Tenneco performed a thorough internal investigation into the tender forming the basis of the Referral. No evidence of improper conduct by Tenneco relating to this tender was found during this internal investigation.
- 3.2. The Tenneco employee allegedly involved in the impugned conduct left the company during or about 2004. Tenneco does not have any access to either him or his documents. In addition, Tenneco does not have any access to the evidence upon which the Commission relies in order to sustain the Referral.
- 3.3. Given the historical nature of the alleged conduct which is alleged to have occurred in Germany over seventeen years ago, the lack of evidence uncovered by Tenneco pursuant to its internal investigation and the fact that the Complaint has remained unresolved since 2014, Tenneco is concerned that the adjudication of the Complaint in the ordinary course of opposed proceedings before the Tribunal will be protracted, time consuming and costly.
- 3.4. This Settlement Agreement affords Tenneco an opportunity to achieve an expeditious, pragmatic and final resolution of the Complaint, without admitting that any of the allegations in the complaint are meritorious.

4. ADMISSION

- 4.1. To facilitate the finalisation of these proceedings only, Tenneco accepts the possibility that improper conduct in contravention of section 4(1)(b) of the Act may have taken place during or about 2002, between an erstwhile employee of Tenneco and an erstwhile employee of Eberspächer. Owing to the absence of any corroborating evidence at its disposal and the additional challenges explained in paragraph 3 above, however, Tenneco cannot confirm such allegations.



5. CO-OPERATION

5.1. Tenneco agrees to fully cooperate with the Commission in its prosecution of the remaining respondents in the Commission's Complaint Referral. This cooperation includes, but is not limited to:

5.1.1. To the extent that it is in existence, the provision of evidence, written or otherwise, which is in the possession of Tenneco or under Tenneco's control, concerning the alleged prohibited practices set out in this Consent Agreement.

5.1.2. Testifying during the hearing of the Complaint referral, in respect of the prohibited practices set out in this Consent Agreement.

6. ADMINISTRATIVE PENALTY

6.1. Tenneco agrees and undertakes to pay an administrative penalty in the amount of R20,515.34 (Twenty Thousand Five Hundred and Fifteen Rand and Thirty-Four Cents). This amount does not exceed ten (10%) percent of Tenneco's annual turnover in South Africa during its preceding financial year.

6.2. Tenneco shall pay the administrative penalty into the following bank account of the Commission:

Name of Account:	THE COMPETITION COMMISSION
Bank name:	ABSA BANK PRETORIA
Account Number:	4050778576
Branch Code:	323 345
Ref:	2014Nov0688/Tenneco



6.3. The administrative penalty will be paid by Tenneco within 30 (Thirty) Days of the date of confirmation of this Consent Agreement as an order of the Tribunal.

6.4. The administrative penalty will be paid over by the Commission to the National Revenue Fund in terms of section 59(4) of the Act.

7. FUTURE CONDUCT

Tenneco confirms that all work in relation to the impugned tender ceased several years ago and it agrees to:

7.1. refrain from engaging in conduct that amounts to a contravention of section 4(1)(b) of the Act; and

7.2. continue to foster a culture of competition law awareness through the implementation of competition law compliance training and related initiatives for its employees.

8. COMPLIANCE

8.1. Proof of payment relating to this matter shall be forwarded to the Commission at CartelSettlements@compcom.co.za.

9. FULL AND FINAL SETTLEMENT

9.1. This Consent Agreement, upon confirmation as a consent order by the Tribunal, is entered into in full and final settlement and concludes all proceedings between the Commission, Tenneco and Gillet relating to any alleged contraventions by Tenneco of the Act that are the subject of the Complaint.



Dated and signed at Edenburg on the 18 day of February 2025



Oliver Pfirrmann, Managing Director

Tenneco GMBH

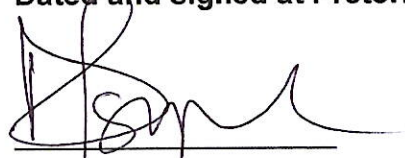
Dated and signed at Edenburg on the 18 day of February 2025



Matthias Millers, Managing Director

Tenneco GMBH

Dated and signed at Pretoria on the 11th day of March 2025



Ms. Doris Tshepe

Commissioner