

Fertiliser producer gets R30m fine for collusion

The Competition Commission has welcomed the decision of the Competition Tribunal to confirm as an order a settlement agreement reached with Omnia Fertilizer Limited.



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Omnia has agreed to pay a R30 million administrative fine for contravening the Competition Act. It has also agreed to withdraw its review application on this matter, which is currently before the Competition Appeal Court.

The agreement follows an admission by the fertiliser producer, Omnia, that between 1998 and 2005, its Nitrochem division fixed prices and allocated markets in the fertiliser market in contravention of the Competition Act.

In a case marked by protracted litigation, in 2003 Nutri-Flo CC and Nutri-Fertilizer CC complained to the Commission that Sasol Chemical Industries Limited was involved in anti-competitive conduct. There were also allegations of collusive conduct against Omnia and its Nitrochem business.

Subsequently, there was an investigation which discovered that there was an arrangement so that Sasol became the exclusive supplier of limestone ammonia nitrate (LAN) to the wholesale market.

Further, the investigation found that there were arrangements to fix the prices of LAN and other fertilisers as well as allocating customers, suppliers and volumes.

These collusive arrangements were facilitated through meeting platforms such as the Nitrogen Balance Committee, Import Planning Committee and the Export Club.

The collusion related to ammonia, potash, urea, mono-ammonium phosphate (MAP), di-ammonium phosphate (DAP), and LAN.

In May 2005, Sasol, Yara South Africa (PTY) Limited and Omnia were charged with market allocation and price fixing.

In May 2009, Sasol paid an administrative penalty of about R251 million after it signed a settlement agreement with the Commission in which it admitted to have contravened the Competition Act. Yara has since been liquidated.

“It’s encouraging to see that a complaint by a relatively small player has resulted in a positive behavioural change towards more pro-competitive conduct by larger players in such an important agricultural input.

“The matter has highlighted the benefit of competition to small businesses, such as emerging farmers, where key inputs, such as fertilisers, are procured from competitive manufacturers.

“Further, in a country with enormous food security challenges, manipulation of prices of key agricultural ingredients is of great concern.

“We invite more players to approach us when they detect any foul-play as far as anti-competitive conduct is concerned,” said Competition Commissioner Tembinkosi Bonakele.

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