

SOUTH AFRICA / JUDGMENT

Competition Commission v T.RAD Company Limited (CO112Sep20) [2020] ZACT 69 (21 September 2020) [2020] ZACT 69

COURT

Competition Tribunal

BEFORE

Tembinkosi Bonakele

CASE / FILE NUMBER

CO112Sep20

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

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

CT Case No:CO112Sep20

CC Case No: 2014Nov0676

In the matter between:

THE COMPETITION COMMISSION

Applicant

And

T.RAD COMPANY LIMITED

Respondent

CONSENT AGREEMENT

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 T.RAD COMPANY LIMITED, IN RESPECT OF CONTRAVENTIONS OF SECTION 4(1)(b) (ii) OF THE COMPETITION ACT, 1998.

Preamble

The Competition Commission and T.RAD Company Limited ("T.RAD") 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 complaint initiated by the Commissioner in terms of section 498(1) of the Act under case number 2014Nov0676;

1.5. "Consent Agreement" means this agreement duly signed and concluded between the Commission and T.RAD;

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- Kariya, Aichi 448-8661, Japan

1.7. "T.RAD" means TRAD Company Limited (including its subsidiaries) a company incorporated under the company laws of Japan with its principal place of business situated at 3-25-3 Yoyogi, Shibuya - Ku, Tokyo 151 -0053, Japan.

1.8. "Parties" means the Commission and T.RAD and Denso;

1.9. "Respondents" means T.RAD 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 Competition Commission of South Africa ("the Commission") has received information that suggests that T.RAD and Denso allegedly 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 Exhaust gas recirculation, Oil coolers, Radiators (for vehicles and motorcycles) and cooling fans, Intercooler and Automatic transmission fluid

warmers to OEMs, in respect of 46 alleged cartel instances, 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. After investigation, the Commission concluded that T.RAD and Denso colluded in respect of forty-six

(46) instances as listed in the attached Annexure T1.

2.3. The Commission further concluded that the conduct outlined above between T.RAD 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 T.RAD 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 T.RAD conduct in South Africa.

4 FUTURE CONDUCT

T.RAD agrees to:

4.1 prepare and circulate a statement summarizing the contents of this Consent Agreement to its employees, managers and directors within fourteen (14) 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 with 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. In particular, this compliance programme includes mechanisms for the identification, prevention, detection and monitoring of any contravention of competition legislation, including the Act;

4.4 submit a copy of such complianc programme to the Commission within sixty

(60) 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 PE ALTY

5.1 T.RAD agrees and undertakes to pay an administrative penalty in the amount of R500 000.00 (Five Hundred Thousand Rands). This amount does not exceed 10% of T.RAD's turnover for the 2017 financial year.

5.2 T.RAD shall pay the abovementioned amount to the Commission within 30 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: [...]

Branch Code: 632005 Ref: 2014Nov0676

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.

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 T.RAD under case no. 2014Nov0676 and concludes all proceedings between the Commission and T.RAD.

Dated and signed at T.RAD Co., Ltd. on 20th of August, 2020

Tembinkosi Bonakele

Commissioner

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZACT/2020/69.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/competition-commission-v-trad-unknown-topic-act-2020>

Prepared on 12 October 2026 · Esheria