

Tribunal confirms settlements in pipes cartel

South Africa's Competition Tribunal confirmed the settlement agreement between the Commission and Flo-Tek. However, as not all parties were present at the hearing, the Tribunal will set another date for the hearing of the settlement agreement between the Commission and Swan Plastics.

This hearing concerned two proposed settlements in the ongoing plastic pipes cartel case, being settlement agreements between the Commission and Flo-Tek Pipes, on the one hand, and the Commission and Swan Plastics on the other.

Both Flo-Tek and Swan Plastics are firms that manufacture plastic pipes used in the plumbing, civil and agricultural sectors and were accused by the Commission, along with seven others, of price fixing and tender rigging.

At the time, DPI Plastics, also a plastic pipe manufacturer, assisted the Commission to conclude its investigation by providing evidence of the collusion in exchange for immunity from prosecution.

One settlement agreement confirmed

Since the Commission referred its case to the Tribunal, in February 2009, the Tribunal has confirmed one settlement agreement - between the Commission and Marley Pipe Systems. In that settlement, Marley admitted it had contravened the Competition Act and agreed to pay a penalty of around R31 million, being 6% of its turnover for 2007.

While the Tribunal is yet to consider the Swan Plastics settlement agreement, in the agreements, both Flo-tek and Swan Plastics admit they have contravened the Competition Act.

They also agree to pay penalties of about R5 million and R7 million rand respectively, being 6% of their turnovers for 2007. In addition, both parties undertake to cooperate with the Commission's prosecution of any other respondents in the case and to implement compliance programmes designed to ensure that their employees do not engage in such contraventions in future.

While DPI Plastics, Marley, Flo-Tek and Swan Plastics have provided the Commission with information and evidence in the case, Gazelle Plastics, McNeil Moulding and Andrag deny the allegations of collusion against them and are opposing the Commission's case.