competitiontribunal
south africa

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: CR150Oct13/ASP083Aug16

In the substitution alternatively joinder application between:

THE COMPETITION COMMISSION OF SOUTH AFRICA	Applicant
and	
HENDRIK WILHELM CARL PISTORIUS N.O.	First Respondent
LEO CONSTANTIN PISTORIUS N.O.	Second Respondent
HERMINE PISTORIUS N.O.	Third Respondent
ARNOLDUS KURT PISTORIUS	Fourth Respondent
IAN MCINTYRE N.O	Fifth Respondent
DANIEL HENDRIK DU PLESSIS	Sixth Respondent
H. PISTORIUS & CO (PTY) LTD	Seventh Respondent
KALKOR (PTY) LTD	Eighth respondent
ENVIRO LIME (PTY) LTD	Ninth Respondent
SA LIME AND GYPSUM (PTY) LTD	Tenth Respondent

In re:

The complaint referral between:

THE COMPETITION COMMISSION OF SOUTH AFRICA	Applicant
and	
H. PISTORIUS & CO (PTY) LTD	First Respondent
KALKOR (PTY) LTD	Second Respondent
ENVIRO LIME (PTY) LTD	Third Respondent
SA LIME AND GYPSUM (PTY) LTD	Fourth Respondent

Panel	: Ms Yasmin Carrim (Presiding Member : Ms Mondo Mazwai (Tribunal Member) : Prof Imraan Valodia (Tribunal Member)
Heard on	: 02 March 2017
Order Issued on	: 19 June 2017
Reasons Issued on	: 19 June 2017

REASONS FOR DECISION

Introduction

[1] This matter concerns an application brought in terms of rule 45 of the Rules for the Conduct of Proceedings in the Competition Tribunal ("CTR") for the joinder of a trust and the amendment of a notice of motion in interlocutory matters.

[2] The Applicant, the Competition Commission of South Africa ("the Commission"), ultimately seeks to join the Hendrik Pistorius Trust: registration number IT11463 (T) ("the Trust"), as represented by its trustees in their *nomino officii* capacities, to a complaint referral referred to the Competition Tribunal ("Tribunal").[1]

[3] At first the Commission, in its notice of motion in this matter, sought the substitution of an entity named H Pistorius & Co (Pty) Ltd ("the Company") for the Trust as the primary relief and the joinder of the Trust in the alternative. The Commission has since changed tack and requested that the Tribunal rather grant the joinder as its primary relief and the substitution in the alternative. This has thus also required of us to deal with the issue of amending a notice of motion in an interlocutory application.

[4] We have decided to grant the Commission's request to amend its application and to grant its primary relief sought by ordering the joinder of the Trust to proceedings. Our reasons for such follow.

[1] Case number CR150Oct13.

Background

[5] On 20 August 2008 a complaint was filed against an entity referred to interchangeably as H. Pistorius & Co (Pty) Ltd and H. Pistorius en Kie ("the Company") by a Mr. Du Preez of Enviro Lime to the Commission. The Commission investigated the complaint and on 31 October 2013 referred a complaint to the Tribunal ("the complaint referral") in which it alleged that the Company and three others had engaged in minimum resale price maintenance of calctic agricultural lime ("CAL") between 2004 and 2010.

[6] In support of its allegations against the Company, the Commission attached a number of price lists which, on the face of the documents, were issued by an entity called 'H Pistorius & Co' or 'H Pistorius & Kie'. At the foot of each of these documents, Hendrik Pistorius, Leo Pistorius and Luther van Zyl were listed as directors.

[7] In its answering affidavit, the Company raised, as one of its points *in limine,* that the complaint referral cited the incorrect entity. It alleged that, at the time in which the anti-competitive conduct was alleged, the entity active in the CAL market was, in fact, the Hendrik Pistorius Trust[2] ("the Trust"). The Company explained that there were a number of entities in the Pistorius stable, but over the alleged period of the contravention it was the Trust, trading as H Pistorius & Co, that was active in the relevant markets.

[8] On 21 August 2014 the Commission filed an application to compel further and better discovery in which it sought documents/ information relating to the Trust, Company, Pistorius Beleggings, and H Pistorius (Pty) Ltd. The Company opposed the application on the grounds that the application sought to compel discovery from entities that had not been cited as respondents to the complaint referral. The Commission abandoned its discovery application, choosing to rather bring an application for substitution in which it sought to substitute the Company for the Trust as a respondent to the complaint referral ("first substitution application").

[2] A trust registered under no. **IT 11463.**

[9] The first substitution application, heard by the Tribunal on 28 May 2015, was deemed defective on technical grounds due to the fact that the Commission had failed to serve the application on all the trustees of the Trust. The matter was dismissed for non-compliance with rule 45(3). The first substitution application was not opposed by the Trust but curiously was opposed by the Company.[3]

[10] On 11 August 2016 the Commission filed an application in terms of Rule 45 of the Tribunal's rules ("August application") which is the subject of this judgement. In its notice of motion, the Commission requested that the Tribunal make an order in the following terms:

1. *The Competition Commission is permitted to correct the citation of the first respondent in the complaint referral, being the seventh respondent in this application, by substituting it with the citation of the trustees of the Hendrik Pistorius Trust (no IT 114/63) ("the Trust"), being the first to sixth respondents in this application.*

2. *Alternatively, to paragraph 1 above, the first to sixth respondents are joined as the fifth to tenth respondents in the complaint referral.*

3. *Further to paragraph 2 above, the Competition Commission is permitted to amend its notice of motion in the complaint referral in order to seek, in the alternative to the first respondent, the relief in paragraphs 1 to 4 of the notice of motion against the first to sixth respondents once joined as the fifth to tenth respondents in their capacities as trustees of the trust.*

4. *Granting the Competition Commission such further/ and alternative relief as the Tribunal deems appropriate.*

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[3] *The Competition Commission of South Africa v H Pistorius & Co (Pty) Ltd* CR150Oct13/ASP165Dec14/EXC200Feb15, judgement of 13 July 2015, page 3, paragraph 6.

[11] In its founding affidavit the Commission stated that, when composing the complaint referral, it had relied on price lists to determine the identity of the relevant parties. The clear indication of "H Pistorius & Co" on the header of such price lists as well as the indication that individuals listed at the foot of the documents were 'directors' and not 'trustees' had lead it to believe that it was the Company, and not the Trust, that was active in the CAL business over the relevant period. Once the Company filed its answering affidavit, the Commission took the Company on its word that the relevant entity was, in fact, the Trust and sought to correct such a citation.

[12] In a letter from the representative of both the Trust and Company dated 22 September 2016, the representative indicated that 'the respondents' would not oppose an application to substitute the Company with the Trust.[4]

[13] At the first hearing of the August application on 12 October 2016, the Tribunal raised a question as to the appropriateness of the Commission pursuing a substitution application. It queried whether, in light of the fact that there is evidence on paper implicating both the Company and the Trust, whether or not the prayer for joinder contained in paragraphs 2 and 3 of the Commission's notice of motion was the more appropriate.[5]

[14] The Commission acknowledged the appropriateness of the joinder application and indicated that it would be willing to pursue its alternative prayer for joinder. Adv Coetzee representing both the Company and the Trust indicated that if such were to be the case the respondents would oppose the application. The matter was adjourned in order to afford the Commission the opportunity to amend their papers and the respondents an opportunity to file opposing papers.[6]

[15] In a letter later that day, the Commission indicated its intention to pursue relief in terms of prayers 2 and 3 of the August application's notice of motion, namely,

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[4] Letter to the Tribunal from Louw Attorneys, 22 September 2016, attached to the Commission's Replying Affidavit, page 67 of the Hearing bundle.
[5] Tribunal Transcript, 12 October 2016, Page 6, lines 4-21.
[6] Tribunal Transcript, 12 October 2016, page 11, lines 10-14.

a joinder of the Trust to proceedings. The Commission noted that the Trust and Company had every opportunity to oppose such prayers prior to the hearing and had chosen not to file answering affidavits. Nevertheless, the Commission indicated a willingness to grant the parties an opportunity to file answering affidavits in the matter.

[16] The Company and Trust filed a joint answering affidavit on 27 October 2016, with the Commission filing a reply on 18 November 2016.

[17] The answering affidavit submitted on 27 October 2016 was attested to by Mr Leo Constantin Pistorius on behalf of both the Trust and the Company. He is currently a trustee of the Trust as well as a director of the Company.[7]

Application to Amend the August Application

[18] At the second hearing of the August application on 2 March 2017, the Commission requested leave to amend its notice of motion to reflect that it would primarily seek relief in the form of an order joining the Trust to the complaint referral and in the alternative, an order substituting the Company with the Trust. In other words the Commission sought simply to re-arrange the relief it was seeking by now requesting in paragraph 1 a joinder of the Trust and in paragraph 2, in the alternative, a substitution.

[19] When asked by the Tribunal whether the amendment sought was necessary given that the Commission's notice of motion already sought a prayer for joinder in the alternative to substitution, Adv. Maenetje on behalf of the Commission submitted that they sought the amendment for the avoidance of doubt and because the Commission's supporting affidavit had cited substitution as the primary relief.[8]

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[7] Respondents' answering Affidavit, para 1.2 wherein Mr. Pistorius indicates that "*my evidence herein are* [sic] *in support of both the interest of Pistorius (Pty) Ltd and Trust depending on the context and interests relevant*".

[8] Tribunal Transcript, 2 March 2017, line 28-43. Counsel for the Commission explained that the Commission sought the amendment because, upon the Tribunal raising the question as to the suitability of the joinder rather than the substitution application, the Commission in the circumstances believed that the joinder was the more appropriate remedy.

[20] The Tribunal, lacking any express rules regarding the amendment of pleadings in interlocutory matters,[9] is guided by High Court Rule ("HCR") 28.[10] HCR 28(1), indicates that:

> *Any party desiring to amend a pleading or document other than a sworn statement, filed in connection with any proceedings, shall notify all other parties of his intention to amend and shall furnish particulars of the amendment.*

Going on further to state in HCR 28(10):

> *The court may, notwithstanding anything to the contrary in this rule, at any stage before judgement, grant leave to amend any pleading or document on such other terms as to costs or other matters as it deems fit.*

[21] The High Courts have determined that the practical rule with regard to amendments is that such will always be allowed unless the application is made *mala fide* or that the amendment would cause a prejudice to the other side that could not be remedied by costs.[11] The Tribunal has in the past followed such an approach for amendments brought under CTR18.[12] It has further indicated that in exercising its public duty, it is able to adopt a permissive approach to applications for amendments to complaints being prosecuted in the public interest.[13] Such reasoning was applied in those matters to the amendments of the complaint referrals themselves and we see no reason as to why we should

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[9] *Loungefoam (Pty) Ltd and Others v The Competition Commission of South Africa and Others* 102/CAC/Jun10, Paragraph 11 which interprets CTR 18(1) as referring only to an amendment to the form CT1(1). Equating the Tribunal's power in that regard to the power of a court to permit the amendment of a summons. The Tribunal's amendment provision therefore only applies to applications to amend a complaint referral and is thus not applicable to applications to amend notices of motion in interlocutory procedures (as these are notified on a CT6 form).

[10] CTR 55(1)(b) indicates that in instances of uncertainty pertaining to the practice or procedure to be followed, a Tribunal member may give directions on how to proceed having regard to the High Court rules.

[11] *Moolman v Estate Moolman and Another* 1927 CPD at 29. As confirmed in *Affordable Medicines Trust and Others v Minister of Health and Others* 2006 (3) SA 247 (CC) at 261 B-F.

[12] *The Competition Commission v Yara South Africa and Another (Pty) Ltd* 31/CR/May05, judgement of 24 February 2010, Paragraph 48.

[13] *Competition Commission v SAA* 18/CR/May01, judgement of 16 November 2001, page 5.

be unable to utilise such a test when determining whether to allow an amendment of the notice of motion in an interlocutory matter.

[22] In the matter at hand, Adv. Coetzee, representative for the Trust and Company submitted that there had been no formal amendment application, with the presumed intent of objecting to the amendment.[14]

[23] Whilst HCR 28(2) to 28(9) indicate a procedure that may be followed for an amendment to be 'formally raised', HCR 28(10) allows for deviation from such formality at the Court's discretion.[15] High Courts have found that such a discretion should be tempered by considerations of justice and fairness, with a special focus on whether the amendment would cause prejudice that cannot be cured by an order of costs and, where appropriate, a postponement.[16]

[24] In general in section 55 read with CTR 55, the Tribunal has a broad discretion to manage its own proceedings.[17] This broad discretion however must be exercised by the Tribunal to ensure that proceedings are procedurally just and fair.[18] CTR 55(1) allows the Tribunal to consider High Court Rules in instances when the Tribunal's rules are insufficient. It must also not be forgotten that the Tribunal, in terms of CTR 55(3), has the ability to condone technical irregularities arising in any of its proceedings.[19] We conclude therefore that the Tribunal has the ability to allow applications to amend that have not been formally raised if considerations of fairness and justice allow such.

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[14] Tribunal Transcript, 2 March 2017, page 16, lines 16-22.
[15] Rule 28(10) states "*The court may, notwithstanding anything to the contrary in this rule, at any stage before judgment grant leave to amend any pleading or document on such other terms as to costs or other matters as it deems fit.*"
[16] *Trans-Drakensberg Bank Ltd (under judicial management) v Combined Engineering (Pty) Ltd* 1967 (3) SA 632 (D) at 637A-641C which reviews numerous High Court Cases on amendments. *See* Herbenstien and Van Winsen, The Civil Practice of the High Courts and Supreme Court of Appeal of South Africa 5th ed., page 679.
[17] Section 55 read with section 52(2).
[18] *Afrocentric Health Limited v Discovery Health Medical Scheme and seventeen Others* CP003Apr15/JOI120Sep15, CT reasons of 15 August 2016, para 27 referencing *Competition Commission of South Africa v Federal Mogul Aftermarkets Southern Africa (Pty) Ltd and Others CT case number 08/CR/B/May01, judgement of 23 August 2001.*
[19] CTR55(3) states "*The Tribunal may condone any technical irregularities arising in any of its proceedings*".

[25] When regard is had to the facts of this application, we note that in the August application the notice of motion already included an application in the alternative to join the Trust to the proceedings. Hence joinder was already sought by the Commission albeit in the alternative.

[26] Putting aside the question whether it was at all necessary for the Commission to request an amendment of its Notice of Motion and accepting for argument's sake the Commission's reason for seeking it, the letter from the Commission sent to the parties on 12 October 2016 after the initial hearing of the matter clearly indicated that the Commission intended pursuing the joinder application. The Company and the Trust were given a period of time thereafter for the filing of answering affidavits, which they did.[20] It thus cannot be said that the application to amend the August application was sprung unfairly upon the Trust or the Company, or that the Trust and Company did not have the opportunity to respond. The lack of a formal notice did not, in any way, impinge upon either's ability to prepare an answer to such an application. In these circumstances, we find an objection based on the absence of a formal notice without any merit.

[27] The amendment itself cannot be said to raise any prejudice. The amendment causes no change to the Trust's position. The Commission intended to cite the Trust as a respondent either through substitution or joinder. The Trust was made aware of this as early as 11 August 2016 and the Trust had already stated in the 2 September 2016 letter that it has no objection thereto.

[28] The Company was also well aware that the Commission sought the joinder of the Trust in the alternative in its August application. Hence its position in the litigation as a possible erstwhile respondent was never assured but was merely a *spes*. The only change that the Commission's decision to seek joinder as its primary relief seemed to have caused is the stance adopted by the Company. Once appraised of the Commission's change of emphasis the Company sought to oppose the application for joinder and was afforded an adequate opportunity

[20] Letter to the Competition Tribunal dated 12 October 2016, attached at annexure LCP 2 to the Trust's answering affidavit, page 55 of the hearing bundle.

to file its answering affidavit. The Trust and Company were given ample opportunity to respond to the amendment.

[29] Moreover the Commission's change in stance cannot be said to be *mala fide.* The change in the Commission's stance seemed to have been as a result of a legitimate enquiry raised by the Tribunal. But even if the Commission had changed its stance for some other reason the amendment sought cannot be considered *mala fide* simply because the Commission had always contemplated joinder as an alternative remedy which the Trust and the Company were aware of from inception when the Commission first filed it application in August 2016. In light of this we find that the amendment will not cause any prejudice to the Trust or the Company.

[30] Accordingly, the Commission's application to amend its August application to reflect that it primarily seeks the joinder of the Trust and only in the alternative, the substitution of the Company with the Trust, is granted as per our order below.

Application to Join the Trust to Proceedings.

[31] The relevant provision of the Rules of Proceedings before the Competition Tribunal ("CTR"), CTR 45(1), states that:

> *The Tribunal, or the assigned member, as the case may be, may combine any number of persons, whether jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, if their respective rights to relief depend on the determination of substantially the same question of law or facts.* [our emphasis].

[32] The Tribunal has previously held that this rule similar to the Labour Court's Rule 22(1) and is an abridgement of HCR 10(1) and 10(3).[21] Relevant to the

[21] *Competition Commission of South Africa v Federal Mogul Aftermarkets Southern Africa (Pty) Ltd and Others CT case number 08/CR/B/May01, judgement of 23 August 2001* para 22.

purposes of this judgement is the joinder of defendants, to which HCR 10(3) applies. In terms of HCR10(3):

> *Several defendants may be sued in one action either jointly, severally, jointly and severally, separately or in the alternative, whenever the question arising between them or any of them and the plaintiff or any plaintiffs depends upon the determination of substantially the same question of law or fact which, if such defendants were sued separately would arise in each separate action.* [our emphasis].

[33] HCR 10(3) is regarded as a broader codification of the common law joinder of convenience.[22] A joinder of convenience allows courts to join parties in the instance wherein convenience dictates that it would be inappropriate to run the risk of conflicting judgments, by different judges, in different trials, on issues that are common to all the actions.[23] It is differentiated from the common law joinder of necessity, which grants a court the discretion to join parties which possess a direct and substantial interest in any order the court might make in proceedings.

[34] The differentiation of joinders before the Tribunal is of little consequence as it has been previously held that our broad discretion to conduct proceedings encompasses an ability to consider our own rules, high court rules and common law alike to achieve an outcome that would be suitably just and fair in the circumstance of a case.[24] In this respect, the Tribunal and CAC have approved joinders on both the tests considered in a joinder of necessity and a joinder of convenience.[25]

[35] The Commission primarily characterised the joinder of the Trust as one of necessity.[26] We find no reason to disagree with this characterisation and it is

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[22] *Rabinowitz NNO v Ned-Equity Insurance Co Ltd* 1980(3) SA415 (W) 419E.
[23] Herbenstien and Van Winsen *The Civil Practice of the High Courts and Supreme Court of Appeal of South Africa 5th ed.*, page 211.
[24] *Federal Mogul* (note 21 above) para 30.
[25] *Competition Commission v South African Airways (Pty) ltd* 18/CR/Mar01; *Anglo South Africa Capital (Pty) Ltd and Others v Industrial Development Corporation of South Africa and Others* 26/CAC/Dec02.
[26] Applicant Heads of Argument, page 5, para 10.3.

within our ability to utilise the test proscribed by the common law to determine such a question.

[36] The question before us then is a crisp one. Does the Trust have a direct and substantial interest in any order the Tribunal may make with regard to the complaint referral?

[37] The Commission submits that, on the version of the Company, the Trust was allegedly involved in conduct amounting to an anti-competitive practice. A guilty finding and potential imposition of a penalty with regard to such practices would adversely affect the legal rights of the Trust.[27] In the Commission's view, complaint proceedings in the main matter cannot be conducted and completed without affording the Trust an opportunity to be heard.

[38] The basis of the opposition to the joinder application, by both the Trust and the Company, is that a joinder would result in the continued involvement of the *Company* in the complaint referral, which is undesirable. This argument does not present any indication that the Trust does not have a direct and substantial interest in any order that the Tribunal may make with regard to the complaint referral.

[39] The Trust has already acknowledged that it was active in the market over the time period relevant to the complaint. It chose not to oppose the Commission's August application in so far as it was a substitution application, acknowledging that it had a direct and substantial interest in the matter.[28] In light of such acknowledgement, its opposition to the joinder application (as opposed to the substitution application) now makes little sense. Mr Leo Pistorius was not able to point to any particular prejudice that joinder (as opposed to substitution) would prejudice the Trust in any way.

[27] Applicant Heads of Argument, page 6, para 14.
[28] Correspondence from Louw attorneys on 02 September 2016, page 52 of hearing record attached as LCP 1 of Answering affidavit.

[40] Adv Coetzee appearing on behalf of both respondents focussed his argument on the joinder resulting in the misjoinder of the Company. In advancing this argument he provided no coherent reason why the Trust would in any way be affected by such misjoinder. Adv. Maenetje for the Commission submitted that the question of misjoinder of the Company as a response to the joinder of the Trust is not a defence to the joinder of the Trustees, indicating that the Trust, on its own representative's version has a direct and substantial interest in the matter and should be joined.[29]

[41] The respondents submitted that the joinder of the Trust would result in the unfavourable consequence of the Company remaining a party to the complaint referral, which would necessitate a disclosure of this fact in its annual financial statements. The Commission submits that such a consideration is irrelevant given that the application before the Tribunal is one for joinder of the Trust and any impact upon the Company's continued involvement is irrelevant.

[42] We agree with the Commission. The only question before us today is whether the Trust has a direct and substantial interest in the complaint referral. It is inappropriate for the Company to use an opposition to an application to join another party to sever itself from proceedings. The alleged prejudice to the Company also has no merit as the Company has already been cited as a respondent. Any requirement to disclose this already exists.

[43] In our view, summarily, the Commission alleges that the Company, in issuing certain price lists, was engaged in anti-competitive behaviour. The Company fingers the Trust as the party active in the relevant industry at the time of the price lists. The Trust acknowledges that it was the party active in the industry and that it, during the relevant time, traded as H Pistorius & Co. But the persons who have seemingly issued the price list on behalf of H Pistorius & Co are cited as the directors of the Company not trustees of the Trust.

[29] Tribunal Transcript, 2 March 2016, page 29.

[44] Axiomatically therefore, one of the first issues that this Tribunal will need to decide upon after a trial, with the benefit of sufficient facts and evidence, is which party issued the price lists in question. Once that question has been determined, the author of such lists faces a potential guilty verdict and corresponding fine of up to 10% of its annual turnover. It is thus trite that both the Trust and Company will necessarily have to be joined in order to arrive at the truth of the matter. It would be undesirable to run a trial and come to the end of it only to find that the wrong entity is before us.

[45] It would seem that the Trust and the Company also have a direct and substantial interest in the Tribunal's eventual finding on this question. The Trust and the Company seem to have overlapping trustees and directors and the business of the Pistorius group on the face of it seems to be conducted across a number of entities in a particular manner. Why else would a price list purported to come from the Trust list persons as directors of the Company? A finding by the Tribunal would hopefully provide some guidance to the respondents as to the conduct of their business.

[46] The Company is already cited in proceedings and thus all that is left it to join the trust, which we do in terms of our order below.

Order

[47] In light of the above the Tribunal hereby orders that:

1. The Commission is permitted to amend its notice of motion to pursue, in the main, a joinder of the first to sixth respondents in this matter to the complaint referral and alternatively substituting the first respondent in the complaint referral (the seventh respondent in this matter) with the first to sixth respondents in the present matter.

2. The first to sixth respondents in this matter, namely: **Hendrik Wilhelm Carl Pistorius N.O.; Leo Constantin Pistorius N.O.; Hermine Pistorius N.O.; Arnoldus Kurt Pistorius N.O.; Ian Mcintyre N.O. and Daniel Hendrik Du**

Plessis N.O. are hereby joined to the complaint referral proceedings (CT Case No.: CR150Oct13) as the fifth to tenth respondents in their capacities as trustees of the Hendrik Pistorius Trust (Reg no.:IT11463(T)) ("the Trust").

3. The Commission's notice of motion in the complaint referral (CR150Oct13) is amended to include that, in the alternative to the first respondent to such referral, the Commission may seek the relief in paragraphs 1-4 of its notice of motion against the first to sixth respondents to this application, once joined as the fifth to tenth respondents to the complaint referral, in their capacities as trustees of the Trust.

4. The Commission must, within 10 (ten) business days of this order, serve the complaint referral on each trustee of the Trust if it has not already done so.

5. Each trustee of the Trust may file an answering affidavit to the complaint referral within 30 (thirty) business days of receipt thereof.

6. The Commission may, if it so wishes, file its replying affidavit within 20 (twenty) business days from receipt of the answering affidavits contemplated in paragraph 5 (five) above.

Ms Yasmin Carrim

19 June 2017
Date

Mrs Mondo Mazwai and Prof Imraan Valodia concurring

Tribunal Researcher:	Alistair Dey-van Heerden.
For the Applicants:	Adv. NH Maenetje SC *assisted by* Adv. PMP Ngcongo *instructed by* The Competition Commission.
For the Respondents:	Adv. A Coetzee *instructed by* Louw Attorneys.