

## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 017301

In the matter between:

**The Competition Commission**

**Applicant**

And

**The Dorper Sheep Breeders Society of South Africa**

**Respondent**

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Panel : A Wessels (Presiding Member)

A Ndoni (Tribunal Member)

A Roskam (Tribunal Member)

Heard on : 31 July 2013

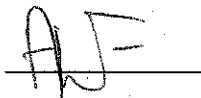
Decided on : 31 July 2013

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### Order

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The Tribunal hereby confirms the order as agreed to and proposed by the Competition Commission and the Respondent, attached hereto as "**Annexure A**", to be read with the addendum to the Settlement Agreement, attached hereto as "**Annexure B**".



A Wessels

Presiding Member

**Concurring:** A Ndoni and A Roskam

ANNEXURE A

competitiontribunal  
SOUTH AFRICA

2013 -07- 12

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TIME: 9:25

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

HELD AT PRETORIA

CC Case No: 2010Aug5303/2011July0131

In the matter between:

THE COMPETITION COMMISSION

Applicant

And

THE DORPER SHEEP BREEDERS SOCIETY OF SOUTH AFRICA

Respondent

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**CONSENT AGREEMENT BETWEEN THE COMPETITION COMMISSION AND THE DORPER SHEEP BREEDERS SOCIETY OF SOUTH AFRICA IN REGARD TO THE ALLEGED CONTRAVENTION OF SECTIONS 4 (1) (b) (i) AND (ii) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED**

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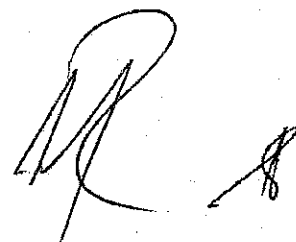
The Competition Commission and The Dorper Sheep Breeders Society of South Africa hereby agree that application be made to the Competition Tribunal ("the Tribunal") for an order confirming this Consent Agreement as an Order of the Tribunal in terms of section 49D read with section 58(1)(a)(iii) and (b) as well as section 59(1)(a) of the Competition Act, No. 89 of 1998 as amended, on the terms set out more below.

**1. Definitions**

For the purposes of this Consent Agreement the following definitions shall apply:



- 1.1. **"the 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 Building C, Mulayo Building, DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.
- 1.4. **"Commissioner"** means the Commissioner of the Competition Commission, appointed in terms of section 22 of the Act.
- 1.5. **"Complaints"** means the complaint lodged on 12 August 2010 by three dorper sheep farmers namely John Dell, Mickey Phillips and Leroy Phillips, and the complaint initiated by the Commissioner against the Society on 07 July 2011 under case numbers 2010Aug5303 and 2011July0131 respectively.
- 1.6. **"Consent Agreement"** means this consent agreement duly signed and concluded between the Commission and the Society.
- 1.7. **"Days"** means calendar days.
- 1.8. **"Parties"** means, collectively, the Commission and the Society.
- 1.9. **"Prohibited Practice"** means a practice prohibited in terms of Chapter 2 of the Act.
- 1.10. **"Society"** means The Dorper Sheep Breeders Society of South Africa a non-profit organisation registered in terms of section 8(7)(a)(ii) of the Animal Improvement Act No. 62 of 1998 ("the Animal Improvement Act") under registration number: 62/98/B-18.

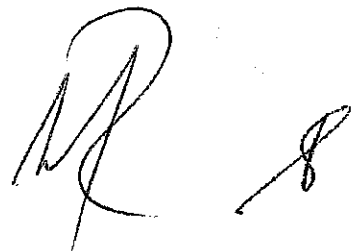
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1.11. "**Tribunal**" means the Competition Tribunal of South Africa, a statutory body, established in terms of section 26 of the Act, with its principal place of business at Building C, Mulayo Building, DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

## 2. The Complaint Investigation

2.1. On 12 August 2010, the Commission received a complaint in terms of section 49B(2)(b) of the Act from three members of the Society ("the third party complaint"). The complaint concerned Rule C of Rules of Sale issued by the Society. Rule C restricted members of the Society to conduct private sales of dorper sheep only within the province or region in which that member resides or that member's farm is situated. In terms of Rule C, members of the Society were required request permission from the Society before they could conduct private sales of dorper sheep outside the province or region in which they reside or their farms are located. This conduct was investigated by the Commission as an alleged contravention of section 4(1)(b)(ii) of the Act.

2.2. During the investigation of the third party complaint, the Commission established that the Society's Rules of Sale contained another rule, Rule 7.1, which stipulated that the minimum sale price of rams is two thousand five hundred rand (R2500) and the minimum price for ewe is seven hundred and fifty rand (R750). Consequently, on 07 July 2011 Commissioner initiated a complaint in terms of

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section 49B(1) against the Society for contravening the provisions of section 4(1)(b)(i) of the Act ("the initiated complaint").

2.3. The Commission investigated the complaints and found that:

2.3.1. Rule 7.1 of the Society's Rules of Sale contravened section 4(1)(b)(i) of the Act;  
and

2.3.2. Rule C of the Society's Rules of Sale contravened section 4(1)(b)(ii) of the Act.

### **3. Admission**

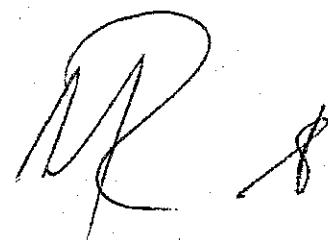
3.1. The Society admits that Rule 7.1 of the Society's Rules of Sale contravenes section 4(1)(b)(i) of the Act.

3.3. The Society admits that Rule C of the Society's Rules of Sale contravenes section 4(1)(b)(ii) of the Act.

### **4. Agreement Concerning Future Conduct**

4.1. The Society confirms that it has amended its Rules of Sale and has removed Rule C and 7.1 of its Rules of Sale.

4.2. The Society agrees and undertakes to refrain from engaging in price fixing, fixing of trading conditions, market division in contravention of sections 4(1)(b)(i) and 4(1)(b)(ii) of the Act.

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- 4.3. Within six (6) months from the date of confirmation of this Consent Agreement, the Society agrees to develop, implement, monitor and enforce a competition law compliance programme in order to ensure that its employees, management, members and agents do not engage in future contraventions of the Act.
- 4.4. The Society undertakes not to engage in any conduct which constitutes a prohibited practice in contravention of chapter 2 of the Act.

**5. Administrative Penalty**

- 5.1. In terms of section 58(1)(a)(iii) read with sections 59(1)(a), 59(2) and 59(3) of the Act, the Society accepts that it is liable to pay an administrative penalty.
- 5.2. The Society agrees and undertakes to pay an administrative penalty in the sum of twenty four thousand one hundred and seventy one rand and thirty cents (R24, 171.30), being 2.5% of the total sales attributable to commissions payable to the Society.
- 5.3. The Society shall remit payment of the administrative penalty into the following bank account:

**NAME: COMPETITION COMMISSION FEE ACCOUNT**

**BANK: ABSA BANK, PRETORIA**

**ACCOUNT NO: 405 077 8576**

**BRANCH CODE: 323345**

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5.4. The Commission will pay the administrative penalty received from the Society into the National Revenue Fund as contemplated by section 59(4) of the Act.

**6. Full and Final Settlement**

This Consent Agreement is entered into in full and final settlement and upon confirmation as an order by the Tribunal, concludes all proceedings between the Commission and the Society relating to any alleged contraventions by the Society and its members of section 4(1)(b)(i) and (ii) of the Act that are the subject of the Commission's investigation under case numbers 2010Aug5303 and 2011.July0131.

Dated and signed in \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2013.

SIGNED at MIDDELBURG on this the 25<sup>TH</sup> day of JUNE 2013.

  
\_\_\_\_\_  
Duly authorised signatory

H. WESTRAAD  
BREED DIRECTOR.

The Dorper Sheep Breeders Society of South Africa

SIGNED at Pretoria on this the 8 day of July 2013.

  
\_\_\_\_\_  
Shan Ramburuth

The Commissioner, Competition Commission

**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA**

**HELD AT PRETORIA**

CT Case No: 017301

CC Case No: 2010Feb4941

In the matter between:

**THE COMPETITION COMMISSION**

Applicant

And

**THE DORPER SHEEP BREEDERS SOCIETY OF SOUTH AFRICA** Respondent

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**ADDENDUM TO CONSENT AGREEMENT BETWEEN THE COMPETITION COMMISSION AND THE DORPER SHEEP BREEDERS SOCIETY OF SOUTH AFRICA IN REGARD TO THE ALLEGED CONTRAVENTION OF SECTIONS 4(1)(b)(i) AND (ii) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED**

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The Competition Commission ("the Commission") and the Dorper Sheep Breeders Society of South Africa ("the society") hereby agree to amend the Consent Agreement concluded on 08 July 2013 by substituting the existing clause 2.1 and 4.3 with the following:

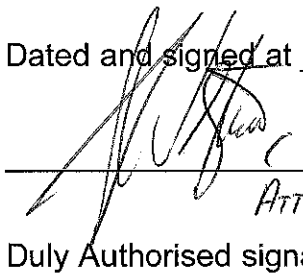
"2.1 On 12 August 2010, the Commission received a complaint in terms of section 49(2)(B) of the Act from three members of the Society ("the third party complaint". The complaint concerned Rule C of the Rules of Sale issued by



the Society. Rule C restricted members of the Society to conduct private sales of dorper sheep only within the province or region in which that member resides or that member's farm is situated. In terms of Rule C, members of the Society were required to request permission from the Society before they could conduct private sales of dorper sheep outside the province or region in which they reside or their farms are located. This conduct was investigated by the Commission as an alleged contravention of section 4(1)(b)(ii) of the Act.

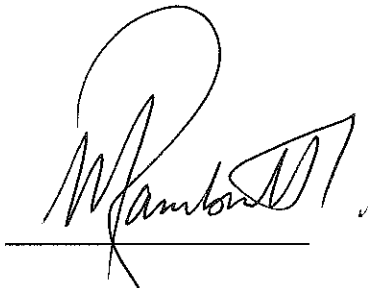
- 4.3. The Society agrees to develop, implement, monitor and enforce a competition law compliance programme in order to ensure that its employees, management, members and agents do not engage in future contraventions of the Act. The Society shall submit a copy of its compliance programme to the Commission within six (6) months of the date confirmation of this Consent Agreement by the Tribunal."

Dated and signed at 31<sup>ST</sup> JULY on this day of July 2013.

  
\_\_\_\_\_  
ATTIE INESTRAAD.  
Duly Authorised signatory

The Dorper Sheep Breeders Society of South Africa

Dated and signed at Prethoria on this 31 day of July 2013.  
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Shan Ramburuth

The Commissioner

Competition Commission