



16 October, 2017

The Tribunal dismisses two applications by tyre manufactures, with the exception of the provision of a transcript for Goodyear

The Competition Tribunal decided on applications by two tyre manufacturers facing price fixing charges. The Tribunal dismissed the application by one of the companies and upheld the application of the second only with regards to the handover of a transcript of an interview with a Bridgestone South Africa (Pty) Ltd (“Bridgestone”) employee (“Bridgestone transcript”).

Continental Tyres requested the production of certain documents of the Commission’s record while Goodyear South Africa asked for further and better discovery. Continental’s application was dismissed by the Tribunal while Goodyear was granted only access to the Bridgestone transcript.

Continental Tyres is the third respondent and Goodyear the second respondent in a price fixing case referred by the Commission to the Tribunal on 31 August 2010 against five respondents. Other tyre manufacturers and suppliers are: Apollo Tyres South Africa; Bridgestone South Africa and the South African Tyre Manufacturers Conference (Pty) Ltd which is the association. Bridgestone applied and was granted leniency on 16 October 2009 and the Commission has since settled with Apollo.

The Tribunal in its order on Friday, 13 October, dismissed Goodyear’s application save for a transcript of an interview with Bridgestone employee Shaun Wustmann. The interview was conducted shortly before Bridgestone applied for leniency. The Tribunal held that the Commission had waived privilege in terms of the transcript when it was erroneously handed over to Continental through Bridgestone’s attorneys. In terms of the order the Commission is required to furnish the transcript to Goodyear within 10 working days.

The Tribunal found that the Commission to date had handed over a large number of documents to the respondents which included the corporate leniency application, the annexures thereto, and the documents it seized during a dawn raid on Bridgestone, SATMC and Apollo. The Tribunal said at the time the applications by the two respondents were heard they had knowledge of the categories of documents that the Commission wished to claim as privileged and restricted and also the reasons therefore. The Tribunal thus dismissed the two applications with the exception of the Bridgestone transcript.

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