

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: CR245Mar17/EXC076Jun17/EXC071May17

In the matter between:

The Competition Commission

Applicant

and

Afrion Property Services CC

First Respondent

Belfa Fire (Pty) Ltd

Second Respondent

Cross Fire Management (Pty) Ltd

Third Respondent

Fire Protection Systems (Pty) Ltd

Fourth Respondent

Fireco (Pty) Ltd

Fifth Respondent

Fireco Gauteng (Pty) Ltd

Now Known as KRS Fire (Pty) Ltd

Sixth Respondent

Tshwane Fire Sprinklers CC

Seventh Respondent

Panel : Y Carrim (Presiding Member)
E Daniels (Tribunal Member)
M Mazwai (Tribunal Member)

Heard on : 10 August 2017

Decided on : 16 August 2017

ORDER: Second and Third Respondents

Following an agreement reached by the Competition Commission ("Commission"), Belfa Fire (Pty) Ltd ("Belfa") and Cross Fire Management (Pty) Ltd ("Cross Fire"), on 10 August 2017, the Competition Tribunal, orders as follows with respect to the exception applications filed by the Belfa and Cross Fire:

1. In respect of paragraphs 21.1 to 21.3 and 21.6 of the Commission's founding affidavit, the Commission should:

- 1.1. Clarify the exact number of instances in which each of Cross Fire and Belfa are alleged to have engaged in collusive tendering/cover pricing;
- 1.2. In respect of each instance of collusive tendering, set out:
 - 1.2.1. the specific tender(s) and/or customers alleged to have been the subject of collusive tendering/cover pricing;
 - 1.2.2. the date(s) on which the alleged conduct occurred; and
 - 1.2.3. the names of the counterparty/counterparties in each instance and not simply a list of all market participants.
- 1.3. Provide sufficient particularity in relation to the dates of each act of collusive tendering/ cover pricing on which the Commission relies.
2. In respect of paragraph 21.3, the Commission should clarify whether Cross Fire is implicated in the tenders referred to vis-a-vis the allegedly collusive conduct of Fire Protection Systems (Pty) Ltd ("FPS") and its competitors (i.e. the allegations which appear under the heading "Collusive instances involving FPS and its competitors").
3. In respect of paragraph 22, the Commission should:
 - 3.1. Clarify whether the agreement alleged at paragraph 22 of the founding affidavit is a separate agreement from that described in paragraph 21 thereof or not;
 - 3.2. Clarify whether Cross Fire is implicated in the conduct referred to in paragraph 22; and
 - 3.3. Set out each instance of customer allocation and/or the provision of "cover quotes" which fall under this paragraph, and not merely provide selected "examples".

- 3.4. In respect of each instance of customer allocation and/or the provision of “cover quotes”, to set out:
- 3.4.1. the specific customer(s) alleged to have been “allocated” to or by Cross Fire and Belfa;
 - 3.4.2. the date(s) on which the alleged conduct occurred;
 - 3.4.3. the names of the counterparty/counterparties in each instance and not simply a list of all market participants; and
 - 3.4.4. to the extent not covered by the above, each of the specific tenders alleged to have been the subject of the impugned conduct under paragraph 22, and not simply to list examples thereof.
4. The Commission will file a supplementary affidavit within 20 business days of the date of this Order in which it provides greater detail to clarify certain paragraphs of the founding affidavit in the complaint referral.
5. Belfa and Cross Fire will file their respective answering affidavits within 20 business days after receiving the Commission’s supplementary affidavit.
6. The Commission will file its replying affidavit within 10 business days after receiving the answering affidavits of the Belfa and Cross Fire.
7. There is no order as to costs.



Presiding Member
Ms Yasmin Carrim

16 August 2017
Date

Concurring: Mr Enver Daniels and Ms Mondo Mazwai