



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: CR032Jun21/SA068Aug21

In the matter between:

The Competition Commission

Applicant

And

Maziya General Services CC

Respondent

Panel: E Daniels (Presiding Member)
AW Wessels (Tribunal Member)
Y Carrim (Tribunal Member)

Addendum filed on: 11 October 2021

Heard on: 14 October 2021

Decided on: 14 October 2021

Settlement Agreement

The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Maziya General Services CC annexed hereto; including the addendum to the agreement of 30 August 2021, as annexed hereto.

Enver Daniels

**Presiding Member
Mr Enver Daniels**

14 October 2021

Date

Concurring: Mr Andreas Wessels and Ms Yasmin Carrim

**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA
(HELD IN PRETORIA)**

**CT Case No: CR032JUN21
CC Case No: 2019DEC0015**

In the matter between:

THE COMPETITION COMMISSION

Applicant

And

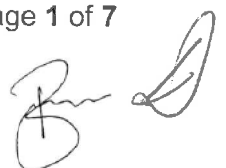
MAZIYA GENERAL SERVICES CC

Respondent

CONSENT AGREEMENT IN TERMS OF SECTION 49D READ WITH SECTIONS 58(1)(a)(iii) AND 58(1)(b) OF THE COMPETITION ACT 89 OF 1998 ("THE ACT") AS AMENDEND BETWEEN THE COMPETITION COMMISSION AND MAZIYA GENERAL SERVICES CC IN RESPECT CONTRAVENTIONS OF SECTION 4(1)(b)(i) AND (iii) OF THE ACT.

PREAMBLE

The Commission and Maziya hereby agree that application be made to the Tribunal for the confirmation of this Consent Agreement as an order of the Tribunal in terms of section 49D read with section 58(1)(a)(iii) and 58(1)(b) of the Competition Act, No. 89 of 1998, as amended ("the Act"), in respect of contravention of section 4(1)(b)(i) and (iii)

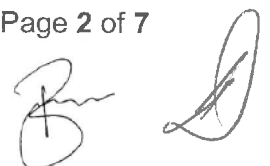


of the Act, on the terms set out below.

1. DEFINITIONS

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

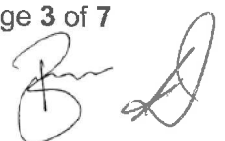
- 1.1 “**Act**” means the Competition Act, 1998 (Act No. 89 of 1998), as amended;
- 1.2 “**Commission**” means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act, with its principal place of business at Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.3 “**Commissioner**” means the Commissioner of the Competition Commission, appointed in terms of section 22 of the Act;
- 1.4 “**Complaint**” means the complaint submitted by the City Power Johannesburg (SOC) Ltd with the Commission in terms of section 49B(2) of the Act under case number 2019Dec0015;
- 1.5 “**Consent Agreement**” means this agreement duly signed and concluded between the Commission and Maziya;
- 1.6 “**Maziya General Services CC**” means a private company duly registered in accordance with the laws of the Republic of South Africa, with its principal place of business at at at 728 Dame Street, Roodepoort.



- 1.7 **“Parties”** means the Commission and Maziya;
- 1.8 **“City Power Johannesburg (SOC) Ltd”** means a private company duly registered in accordance with the laws of the Republic of South Africa, with its principal place of business at,40 Heronmere Road Johannesburg. and
- 1.9 **“City Power Tender”** means the tender number 2285S, advertised by City Power Johannesburg on or about June 2018, for the appointment of labour contractors for installation, maintenance of medium and low voltage infrastructure including public lighting and major capex projects.
- 1.10 **“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 Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. COMMISSION’S INVESTIGATION AND FINDINGS

- 2.1 On 10 December 2019, City Power submitted the Complaint in terms of section 49(B)(2) of the Act, whereby it was alleged that Cromico Trading (Pty) Ltd (“Cromico”), Maziya General Services CC (“Maziya”) being firms in a horizontal relationship, entered into an agreement to fix prices and tender collusively when responding to the City Power Tender in contravention of section 4(1)(b)(i) and (iii) of the Act. The Commission investigated this Complaint under Case Number 2019Dec0015.



- 2.2 The Commission's investigation found that around June 2018 Maziya and Cromico colluded by agreeing on prices to submit to City Power in response to the above mentioned tender. Maziya and Cromico agreed that Maziya would submit prices that were lower than those of Cromico by 2.4% across all line items. The line items being amongst others supply of ready mix concrete, laying of cable, replacement of jumpers, etc.
- 2.3 The tender was for a period of three years commencing from 1 December 2018 and ending in 1 December 2021. The tender was cancelled by City Power in October 2020, fourteen (14) months before coming to an end.
- 2.4 This conduct amounts to collusive tendering which contravenes section 4(1)(b) (i) and (iii) of the Act.

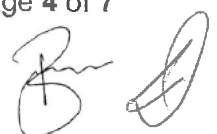
3. ADMISSION OF LIABILITY

- 3.1 Maziya does not admit liability in respect of the conduct described in paragraph 2 above.

4. FUTURE CONDUCT

- 4.1 Maziya agrees and undertakes to:

- 4.1.1 prepare and circulate a statement summarising the contents of this Consent Agreement to its employees, managers and directors within 14

Two handwritten signatures in black ink, one appearing to be 'B' and the other a more complex signature.

(fourteen) days of the date of confirmation of this Consent Agreement as an order of the Tribunal;

4.1.2 refrain from engaging in conduct in contravention of section 4(1)(b) of the Act in the future;

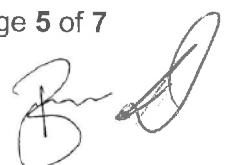
4.1.3 to implement and monitor a competition law compliance programme. Such programme shall incorporate corporate governance designed to ensure the employees, management, directors and agents do not engage in future contraventions of the Act. In particular, such compliance programme will include mechanisms for the monitoring and detection of any contraventions of the Act; and

4.1.4 with regard the competition law compliance programme referred to above, Maziya undertakes to submit to the Commission a copy thereof within 90 days of confirmation of the Settlement Agreement as an Order of the Tribunal.

5. ADMINISTRATIVE PENALTY

5.1 Having regard to the provisions of sections 58(1)(a)(iii) as read with sections 59(1)(a), 59(2) and 59(3) of the Act, Maziya is liable to pay an administrative penalty.

5.2 Maziya agrees and undertakes to pay an administrative penalty in the amount of **R300 000 (Three Hundred Thousand Rands)**. This amount does not exceed

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10% of Maziya's annual turnover in financial year 2019/20.

5.3 Maziya will pay the amount of the administrative penalty set out in paragraph 5.2 above to the Commission within 30 (Thirty) days of the confirmation of the Consent Agreement as an order of the Tribunal.

5.4 The payments shall be paid into the Commission's bank account, details of which are as follows:

Bank name : Absa Bank
Branch name : Pretoria
Account holder : Competition Commission Fees Account
Account number : 4087641778
Account type : Current Account
Branch Code : 632005
Ref : 2019Dec0015/Maziya

5.5 The Commission will pay this sum to the National Revenue Fund in terms of section 59(4) of the Act.

6. MONITORING

6.1. All reports in relation to conditions set out in this agreement, including but not limited to Compliance programmes, Proof of payment(s) etc. shall be submitted to the Commission at CartelSettlements@compcom.co.za.




**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA
(HELD IN PRETORIA)**

CT CASE NO: CR032Jun21/SA068Aug21

CC CASE NO: 2019Dec0015

In the matter between

THE COMPETITION COMMISSION

Applicant

And

MAZIYA GENERAL SERVICES (PTY) LTD

Respondent

**ADDENDUM TO THE CONSENT AGREEMENT CONCLUDED BETWEEN THE
COMPETITION COMMISSION AND MAZIYA GENERAL SERVICES (PTY) LTD**

It is hereby recorded, by agreement between the parties, that the Consent Agreement concluded between the Competition Commission and Maziya General Services (Pty) Ltd, filed on 30 August 2021 for confirmation by the Competition Tribunal be supplemented as recorded below.

1. INSERTING PARAGRAPH 3.2 TO READ AS FOLLOWS:

3.2. The Commission decided not to insist on an admission of liability based on the following amongst others:

3.2.1 There is lack of direct evidence of an agreement between the respondents. The Commission's case is based on inferential reasoning and the outcome may go either way,



3.2.2 The Commission is not desirous to expand its limited litigation resource to pursue a small firm of Maziya's calibre,

3.2.3 Maziya's business, as a small firm, that is dependent on bidding for government tenders may be forced to exit the market if it settles with admission of liability,

3.2.4 Whilst Maziya was appointed to be in panel of service provider through the tender process, the tender was cancelled before it was completed, and thus stopping Maziya from further benefiting from the tender; and

3.2.5 Maziya has not been found guilty of contravening the Competition Act.

2. This addendum shall be deemed to be incorporated into and form part of the Consent Agreement and, unless otherwise stated, the words and phrases used in this addendum shall bear the meaning ascribed to them in the Consent Agreement.

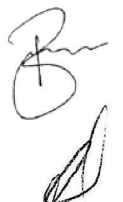
For Maziya General Services (Pty) Ltd

Dated and signed at BOUYSENS. on the 4th day of OCTOBER 2021.



Chief Executive Officer

Name in Full: CHRISTIAAN NELPORT.



For the Commission

Dated and signed at PRETORIA **on the** 11 **day of** OCTOBER **2021.**



TEMBINKOSI BONAKELE

COMMISSIONER

