



**competitiontribunal**  
SOUTH AFRICA

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No: CR086Aug19/SA028May22**

In the matter between:

Competition Commission of South Africa

**Applicant**

And

Fire Check CC

**Respondent**

Panel: Y Carrim (Presiding Member)  
I Valodia (Tribunal Member)  
A Ndoni (Tribunal Member)

Heard on: 20 May 2022

Decided on: 20 May 2022

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**Settlement Agreement**

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The Tribunal hereby confirms the settlement agreement as agreed to and proposed by the Competition Commission and Fire Check CC annexed hereto.

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**Presiding Member  
Ms Yasmin Carrim**

**20 May 2022**

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**Date**

**Concurring: Prof Imraan Valodia and Ms Andiswa Ndoni**

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

**CT CASE NO: CR086AUG19**

**CC CASE NO: 2017JUL0013**

In the matter between:

**COMPETITION COMMISSION OF SA**

Applicant

And

**FIRE CHECK CC**

Eighth Respondent

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**CONSENT AGREEMENT IN TERMS OF SECTION 49D READ WITH SECTION 58(1)  
(b) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED, BETWEEN THE  
COMPETITION COMMISSION AND FIRE CHECK CC, IN RESPECT OF A  
CONTRAVENTION OF SECTION 4(1)(b)(ii) OF THE COMPETITION ACT 89 OF 1998**

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**Preamble**

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

**1. DEFINITIONS**

For the purposes of this consent agreement the following definitions shall apply

1.1 **"Act"** means the Competition Act No. 89 of 1998, as amended.

- 1.2 “**ASIB**” Automatic Sprinkler Inspection Bureau (Pty) Ltd a private company duly incorporated in accordance with the laws of the Republic of South Africa, with its principal place of business **situated** at 1407 Cnr Louis Botha and Tudhope Avenue, Houghton Estate, Johannesburg.
- 1.3 “**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 1st Floor, Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.
- 1.4 “**Commissioner**” means the **Commissioner** of the Competition Commission (the Commissioner) in terms of section 24(1) of the Act.
- 1.5 “**Investigation**” means investigation of **the** Complaint.
- 1.6 “**Complaint**” means the complaint initiated by the Commissioner on 5 July 2017 in terms of section 49B(1) of the Act under case number 2017Jul0013.
- 1.7 “**Complaint Referral**” means the **complaint** referred by the Commission to the Tribunal under case number CR086Aug19.
- 1.8 “**Consent Agreement**” means this **agreement** duly signed and concluded between the Commission and Fire Check.
- 1.9 “**Fire Check**” means Fire Check CC, a close corporation, duly incorporated in accordance with the laws of the Republic of **South** Africa, with its registered office situated at 10 Cassiafield Grove, Springfield Park, Durban.
- 1.10 “**Parties**” means the Commission and **Fire** Check.
- 1.11 “**Listed Installers**” means fire protection service providers registered **with** ASIB.

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1.12 **“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 the 1<sup>st</sup> Floor, Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

## **2. THE COMMISSION’S INVESTIGATION AND FINDINGS**

2.1 On 05 July 2017, the Commissioner initiated a complaint in terms of section 49B of the Act against Automatic Sprinkler Inspection Bureau (“ASIB”) and all sprinkler installers registered with ASIB. This complaint is being investigated under case number 2017Jul0013.

2.2 On 03 August 2017, the Commission conducted a search and seizure operation at the premises of ASIB and 22 of its Listed Installers, including the premises of Fire Check, and seized documents and electronic data from these premises.

2.3 On 16 August 2019, the Commission filed the Complaint Referral, citing certain Listed Installers as respondents. Fire Check was cited as the Eighth Respondent.

2.4 The allegations against ASIB and its Listed Installers, including Fire Check are that they agreed to allocate to each other specific services in terms of which ASIB would provide inspection and certification services while the Listed Installers, including Fire Check would provide automatic sprinkler installation services.

2.5 It is further alleged that the Listed Installers agreed and were prohibited from conducting business in territories (provinces/regions) which they are not listed and that they should only conduct business in territories (provinces/regions) where they are listed / registered.



2.6 The Investigation revealed the following:

2.6.1 ASIB is a private company which has an arrangement with other private companies that are installers of fire sprinklers in terms of which ASIB is fashioned as an association and the installers of fire sprinklers are fashioned as members of ASIB.

2.6.2 The arrangement further entails that on becoming a Listed Installer of ASIB, each of the Listed Installers agreed to adhere to ASIB rules which entailed that inspection services would be performed by ASIB only whilst the Listed Installers would be provide installation services only.

2.6.3 The ASIB rules enabled Listed Installers to divide the market by allocating territories in that a Listed Installer registered in a particular area is limited to render its service in its registered area.

2.6.4 This conduct between ASIB and Listed Installers amounts to market division by allocation of specific types of services and territories in contravention of section 4(1)(b)(ii) of the Act.

### **3. ADMISSION**

3.1. Fire Check does not admit that it has acted in contravention of section 4(1)(b)(ii) of the Act as described in part 2 above.

3.2. The Commission has agreed to enter into the Consent Agreement without an admission of liability based on a combination of the following factors:

3.2.1. The Commission is incentivising Fire Check to discontinue from adhering to any ASIB rules that divide the markets, as part of its strategy to end the anticompetitive conduct occasioned by these

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rules in the market for installation and inspection of automatic fire sprinklers;

3.2.2. Fire Check has not been found to have contravened the Act before.

#### **4. AGREEMENT REGARDING FUTURE CONDUCT**

- 4.1. Fire Check undertakes not to agree or adhere to any ASIB rule which would preclude it from operating in any geographic region.
- 4.2. Should Fire Check determine that it wishes to enter the market for the provision of inspection services, which is reserved for ASIB, it undertakes not to restrict its right to do so by agreeing with any actual or potential competitors in that market, or with ASIB, to restrict such activities.
- 4.3. Fire Check undertakes not to restrict its sourcing of inspection services from only ASIB, provided it is commercially viable to do so.
- 4.4. Fire Check will develop, implement and monitor a competition law compliance programme as part of its corporate governance policy, which is designed to ensure that all employees, members and management do not engage in contraventions of the Act. Such compliance programme will include mechanisms for the identification and prevention of any contraventions of the Act.
- 4.5. Fire Check undertakes to submit a copy of such compliance programme to the Commission within 60 days of the date of confirmation of this Consent Agreement as an order to the Tribunal.
- 4.6. Fire Check shall circulate a statement summarizing the contents of this Consent Agreement to all management and operation staff employed by Fire Check within 60 (sixty) calendar days from the date of confirmation of this Consent Agreement by the Tribunal.



4.7. Fire Check hereby commits itself to competitive practices and refraining from engaging in any anti-competitive conduct in contravention of the Act.

## 5. ADMINISTRATIVE PENALTY

5.1. In order to bring the matter to conclusion, Fire Check agrees to pay an administrative penalty in the amount of R320 058.15 (Three Hundred and Twenty Thousand, and Fifty Eight Rand, Fifteen cents). This amount does not exceed 10% of Fire Check annual turnover for the financial year ended February 2021.

5.2. Fire Check agrees to pay the administrative penalty, as stipulated in the above paragraph, in 12 (twelve) monthly instalments within 30 days from confirmation of this Consent Agreement by the Tribunal.

5.3. The payment shall be made into the Commission's bank account, details which are as follows:

<b>Bank name:</b>	<b>Absa Bank</b>
<b>Branch name:</b>	<b>Pretoria</b>
<b>Account holder:</b>	<b>Competition Commission Fees Account</b>
<b>Account number:</b>	<b>4087641778</b>
<b>Account type:</b>	<b>Current Account</b>
<b>Branch Code:</b>	<b>632005</b>
<b>Reference:</b>	<b>2017JUL0013 FireCheck</b>

5.4. The penalty will be paid over by the Commission to the National Revenue Fund in accordance with 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](mailto:CartelSettlements@compcom.co.za).



**7. FULL AND FINAL SETTLEMENT**

7.1. This Consent Agreement is entered into in full and final settlement of the Commission's investigations defined in the definitions' clause and upon confirmation as an order of the Tribunal, concludes all proceedings between the Commission and Fire Check relating to the conduct that is the subject of the Commission's investigation defined in the definitions' clause.

**Fire Check CC**

  
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**Signed and dated at Durban on the 18<sup>th</sup> day of May 2022.**

**Name in Full: Varen Alwar**

**Designation: Managing Director**

**For the Competition Commission**

**Signed and dated at PRETORIA on the 19<sup>th</sup> day of May 2022.**

  
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**Name in Full: TEMBINKOSI BONAKELE**

**Designation: COMMISSIONER OF THE COMPETITION COMMISSION**

