

Media release

24 June 2013

### **Construction firms settle collusive tendering cases with R1.5 billion in penalties**

The Competition Commission (“Commission”) has reached settlement with 15 construction firms for collusive tendering, in contravention of section 4(1) (b) of the Competition Act. The firms have agreed to penalties collectively totalling R1.46bn.

The settlements were reached in terms of the Construction Fast Track Settlement Process, launched in February 2011. The fast-track process incentivised firms to make full and truthful disclosure of bid rigging in return for penalties lower than what the Commission would seek if it prosecuted these cases.

Twenty one firms responded to the Commission’s offer of a fast-track settlement. While over 300 instances of bid rigging were revealed through this initiative, the settlements were reached only with respect to projects that were concluded after September 2006, before which transgressions are beyond the prosecutorial reach of the Competition Act. The breakdown of penalties per firm is as follows:

	<b>Firm</b>	<b>Settlement amount (ZAR)</b>
1.	Aveng	306 576 143
2.	Basil Read	94 936 248
3.	Esorfranki	155 850
4.	G Liviero	2 011 078
5.	Giuricich	3 552 568
6.	Haw & Inglis	45 314 041
7.	Hochtief	1 315 719
8.	Murray & Roberts	309 046 455
9.	Norvo	714 897
10.	Raubex	58 826 626
11.	Rumdel	17 127 465
12.	Stefanutti	306 892 664
13.	Tubular	2 634 667
14.	Vlaming	3 421 662
15.	WBHO	311 288 311
	<b>Total</b>	<b>1 463 814 392</b>

The responses to the Construction Fast Track Settlement offer revealed various ways in which firms historically determined, maintained and monitored collusive agreements. These included meetings to divide markets and agree on margins. Different combinations of firms coordinated tenders over different projects. Firms colluded to create the illusion of competition by submitting sham tenders (“cover pricing”) to enable a fellow conspirator to win a tender. In other instances, firms agreed that whoever won a tender would pay the losing bidders a “loser’s fee” to cover their costs of bidding. Sub-contracting was also used to compensate losing bidders.

Three firms did not accept the Commission's settlement offer in terms of the fast track process. These are: Group 5, Construction ID and Power Construction.

Construction firms that have not used the opportunity disclose or settle contraventions will be investigated and prosecuted. With the evidence gathered during this process, the Commission will investigate and prosecute firms that have not disclosed any projects but are implicated by others or those that have elected to settle only some of the projects that they are implicated in.

Competition Commissioner, Shan Ramburuth, was pleased with participation in the fast track settlement. He emphasised that "in revealing the extent of collusion in the construction industry, the Commission's fast track settlement broke up existing cartels and created awareness of collusive practices in the industry. Embedding a competitive culture will be critical to bringing down the costs of future infrastructure investments and will incentivise firms toward innovation and efficiency in future projects".

For more Information:

Trudi Makhaya, Deputy Commissioner  
012 394 3326/ 073 289 3570 / [trudim@compcom.co.za](mailto:trudim@compcom.co.za)

Keitumetse Letebele, HOD: Communication  
012 394 3183/ 082 783 3397/ [keitumetsel@compcom.co.za](mailto:keitumetsel@compcom.co.za)

Themba Mathebula, External Communications Coordinator  
012 394 3325/ 084 896 0860/ [thembama@compcom.co.za](mailto:thembama@compcom.co.za)