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MEDIA RELEASE

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Investigation Ref: **INV 050**

PRICE FIXING CARTEL: THE COMPETITION COMMISSION IMPOSES FINES TOTALLING Rs 1.4 MILLION ON FIVE PRODUCERS OF DEER/VENISON

The Commissioners of the Competition Commission have determined that five producers of deer in Mauritius, namely Agria Ltd, Alteo Agri Ltd, Constance La Gaiete Co Ltd, Medine Ltd and Ferney Limited have breached section 41 of the Competition Act 2007 (the Act) by agreeing to fix the price at which they supply deer/venison to a meat processor in Mauritius. Section 41 of the Act prohibits agreements between competitors on the price at which they sell their products or services.

The Commissioners have thus decided to adopt the recommendations of the Executive Director to impose financial penalties totalling Rs 1.4 million on the five enterprises under section 59 of the Act. The five enterprises cooperated voluntarily with the investigation and the decision-making process at the level of the Commissioners. Given their contribution to expedite the matter, the fines imposed on the said companies were reduced by the Commission.

The decision has been published in the Government Gazette and is also available on the website of the Competition Commission.

Background of the Investigation

The Executive Director of the Competition Commission launched an investigation into the supply of deer/venison by six producers, namely Agria Ltd, Alteo Agri Ltd, Constance La Gaiete Co Ltd, Medine Ltd, Ferney Limited and Société de Palmyre. The concern of the investigation was whether the producers have participated in collusive agreements to fix their selling price when supplying deer meat to Panagora Marketing Co. Ltd (Panagora) which is an enterprise that operates as meat processor and wholesale distributor in the supply of venison.

The investigation revealed that initially the five parties, namely Agria, Alteo, Constance, Medine and Ferney discussed on a common price through the trade association which regroups them, that is, the Mauritius Deer Farming Cooperatives Society (MDFCS) and used the latter as a platform to engage in negotiations with Panagora for the supply of the venison. Whilst the MDFCS became dormant in

2014, the members of the MDFCS pursued the collective supply to Panagora during the hunting season and the closed season for the period 2015 - 2019. During that period the parties have, on a yearly basis agreed on a common price to be offered to Panagora. The investigation thus concluded that the parties participated in collusive agreement which is prohibited under section 41 of the Act. Since Société de Palmyre had stopped its deer farming activities in the year 2012 and exited the market, it was not concerned with the finding of breach.

In light of his findings, the Executive Director recommended that direction be imposed upon the five parties requiring them *inter alia* to cease their infringements. The Executive Director also recommended the imposition of financial penalties under section 59 of the Act. It is to be noted that the parties volunteered to cooperate during the investigation wherein they decided not to challenge the findings in the spirit of expediting completion of proceedings. The Executive Director favourably considered this cooperation as a mitigation factor when making his recommendations on fines.

The Decision of the Commission

The Commissioners have issued their decision on the matter on the 1st of March 2023, finding merits in the findings made by the Executive Director. The Commission concurred that the investigation report submitted by the Executive Director demonstrates that the aforementioned five parties had agreed amongst themselves to apply a common price when supplying to Panagora. Thus, the Commission found that the five companies participated in price fixing agreements in infringement of section 41(1)(b)(i) of the Competition Act.

The Commissioners have determined that the said agreement among the parties are deemed to significantly prevent, restrict or distort competition.

The Commissioners have directed the parties to put an end forthwith to any collaboration among themselves in respect of pricing when supplying to Panagora or to any other party; and to refrain from repeating or engaging in any act or conduct which involves discussion on pricing or the sharing of information on price for the supply of deer meat.

The Commissioners have also determined that the matter warrants the imposition of financial penalty. Considering the facts and circumstances of the case, and the collaboration volunteered by the parties which expedited the matter, the Commission has therefore imposed financial penalties to the tune of Rs 213,542 for Agria Ltd, Rs 81,716 for Alteo Agri Ltd, Rs 86,460 for Constance La Gaiete Co Ltd, Rs 116,117 for Ferney Limited and Rs 947,570 for Médine Ltd.

Statement of the Executive Director, Mr Deshmuk Kowlessur

"This case concerned producers of deer and the trade association regrouping them. Although they are competitors, the producers came together through the MDFCS to agree on a common price at which they would supply venison to Panagora which distributes the meat to retail outlets. When the

MDFCS was no more operational, as it became dormant in 2014, the producers continued their arrangement on price. Such arrangements to fix the price between competitors is strictly prohibited under the Competition Act. The decision of the Commissioners of the Competition Commission is that those agreements reached between the producers significantly restricted competition in the market for the supply of deer, not only to Panagora but also but also to the ultimate consumer. Thus, the Commissioners found the producers to have committed a breach of the law and imposed financial penalties on them.

This decision is another positive outcome in terms of enforcement for the Competition Commission, noting that the aim of our enforcement activity is to enhance market competition, for the benefit of all Mauritians. Indeed, this is the seventh collusion case where we have imposed financial penalties as a form of punishment to deter such practice. We believe that the imposition of fines would have a major deterrent effect against collusion, and therefore, help in preserving the process of competition between rival firms for the benefit of consumers and the economy in general.

Coming back to the case itself, I would like to highlight that the parties submitted their cooperation and commitment to stop the infringing conduct. It is to be noted that we always give a favourable consideration to cooperation from parties under investigation, which leads to the elimination of the competition issues identified, resulting into a swift conclusion of the matter, and ultimately resulting into the restoration of competition in the market in the least delay. This cooperation benefited the concerned parties in the form of a reduction in the financial penalties imposed on them, and it also led to a quicker and more effective resolution to this matter.

It must be underscored that in addition to the above cooperation, the Competition law regime in Mauritius also provides several routes to enterprises to cooperate with an investigation, namely, through undertakings which are commitments to address competition concerns, and our leniency policy under which a cartel participant can benefit from immunity, or full or partial discount from fines upon voluntary disclosure of a cartel.

Finally, I would add that trade associations have their raison d'être. *However, since they regroup competitors – enterprises operating in the same market – they may pose certain risks to competition. In the present matter, the MDFCS was used to reach an agreement to fix price. Trade associations must, therefore, be cautious. It is to be noted that the Competition Commission has in the recent past organised an advocacy campaign with trade associations regarding the law and on measures to be adopted to remain in compliance with the law."*

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