

# Class action seeks paltry R2.1m over bread pricing

By [Amanda Visser](#) and [Mark Alix](#)

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A major class action against bread producers found guilty of price fixing and market allocation by the Competition Commission has calculated that the damage to consumers amounted to a mere R2.1m, while the bread producers were fined almost R300m.



The additional cost to consumers of the price-fixing in the bread market amounted to just R2.1m according to figures compiled as part of a class action. Image: [Superstock](#)

The finding comes as both criminal and class actions are being prepared against construction companies who were fined R1.47bn last year for collusion.

The class action is being brought against bread producers Tiger Brands, Premier Foods and Pioneer Foods. However, it remains unclear whether they will accept the claim or oppose it given the fact that it is substantially less than their fines for contravening the Competition Act.

Nortons law firm director John Oxenham, representing Premier, said several procedural elements still had to be concluded before the quantum of the claims or the formation of the class could be considered.

In 2009 the Competition Tribunal found bread producers Tiger Brands, Pioneer Foods and Foodcorp guilty of price fixing and market allocation in the Western Cape and nationally, when they colluded to raise the price of bread and reduce the discounts offered to independent distributors.

Free Market Foundation executive director Leon Louw said on Thursday (6 March) that the civil claims determined in the

bread cartel case at least show some proportionality to the "crime". "It could also be an indicator of the potential claims to be faced by construction firms found guilty of collusion, bid-rigging and price fixing in infrastructure projects," he said.

## **Construction firms lost money**

"There is no evidence how much more our stadiums cost us (as a result of anti-competitive practices)," Louw said.

He said the notion of a 10% penalty on the turnover of a company was unrelated to its profit or the transgressions involved.

Meanwhile, a former board member of construction and engineering group Murray & Roberts said the firm had lost money in 2010 and 2011.

"Where are all the profits? How do you collude and still lose money?" asked Millard Arnold, now a special representative of law firm Bowman Gilfillan, at a competition law seminar at the Mandela Institute in Johannesburg.

Arnold referred to figures released by Statistics SA last July which showed margins in the construction industry were 4% in 2007, 4.8% in 2008, 5% in 2009, 4.8% in 2010 and 2.8% in 2011.

The commission identified 300 collusion cases in projects worth R47bn, but limited the scope of its investigation to 160 projects between early 2006 and late 2009, eventually fining 15 companies a total of R1.46bn.

Murray & Roberts paid more than R300m in such fines.

Cape Town-based law firm Abrahams Kiewitz Attorneys director Charles Abrahams brought the bread class action on behalf of the Children's Resource Centre, the Black Sash Trust, the Congress of South African Trade Unions, and the National Consumer Forum.

Abrahams said at the seminar that their case was "ripe" to go to court. They had appointed a team of economists to assist in quantifying the claim, but the legal action brought by Premier before the Supreme Court of Appeal was holding them back.

Source: Business Day via I-Net Bridge

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