

Judge ticks off lawyers as he dismisses milk cartel appeal

Competition Appeals Court Judge Dennis Davis has expressed grave concern about a tendency in the legal fraternity to prolong court cases indefinitely.

By [Mathabo le Roux](#) 5 Dec 2008

The judge called for a debate in the legal profession in South Africa on the role of lawyers in relation to “balancing the interests of clients and their duty to uphold the integrity of the system”.

Giving his reasons for dismissing an application to have a cartel case against milk processors thrown out, Davis spoke out strongly against lawyers whose actions he implied were undermining the legal system's integrity.

“Competition law must be prosecuted in this country with fairness but also with expedition. The legal community, which appears both in this court and the tribunal, owe their clients a paramount duty, but they also owe, as officers of the court, a duty to the integrity of the legal system,” the judge said in his ruling.

Davis also reiterated comments he made during the appeals hearing. Dubbing collusion “the most egregious form of anticompetitive behaviour”, he called for such cases to be heard expeditiously.

“Price fixing must be rooted out. In a country such as SA, where food prices have risen at an alarming rate and where the maldistribution of wealth continues to be a blight on this nation, such behaviour is unconscionable,” he said.

The investigation into cartel behaviour in the dairy industry started in February 2005, after the Competition Commission received a complaint from a milk producer. Having found evidence of price fixing, it referred the case against eight dairy processors to the tribunal in December 2006. Eight processors have been implicated in the collusion — Clover Industries and Clover SA, Ladismith Cheese, Parmalat, Lancewood and Nestlé SA, Woodlands Dairy, and Milkwood Dairy.

However, Clover SA hit back against the charges, saying actions such as information sharing and volume control were measures to control surpluses and avert the destabilisation of an industry subject to sharp seasonal production fluctuations. The company said its action had been sanctioned by an industry blueprint drafted by the trade and industry department to give direction after deregulation.

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