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Alleged Abuse of Dominance

**Mr. Thomas Marie V/S Civil
Construction Company Limited**

Case Number: FCA56

Date: SEPTEMBER 2015

Complaint: On 13th February, 2015, the Fair Trading Commission received a complaint via a letter from Mr. Guy Ferley Attorney-At-Law on behalf of Mr. Thomas Marie. Mr. Marie claimed that Civil Construction Company Limited was refusing to sell him explosives as he was undertaking blasting work for Quarry Products Seychelles Limited which is a competitor of Civil Construction Company Limited. According to Mr. Marie the refusal to sell was done to eliminate Quarry Products Seychelles Limited out of the Market.

Civil Construction Company Limited is a construction company which produces construction materials such as crusher & quarry products, concrete blocks and paving bricks. The company also sells explosives for use in blasting.

Based on the above, the Fair Trading Commission conducted an investigation in an effort to identify the type of offences being committed and by whom.

Commission's Assessment: With the aim to verify the allegations made by Mr. Marie the Commission held meetings and requested documents from Civil Construction Company Limited, Quarry Products Seychelles Limited and the Seychelles Police.

Through the investigation, the Fair Trading Commission found that Mr. Marie had in a previous occasion purchased explosives from Civil Construction Company Limited to be used at Shreeji Construction. However, Mr. Marie eventually used the explosives at Quarry Products Seychelles Limited instead which is contrary to procedures.

The Commission discovered that blasting at particular site needs to plan in advanced. As such, the fact that Mr. Marie could use the explosive at Quarry Products Seychelles Limited meant he had intended to use the explosive on the aforementioned site rather than Shreeji Construction.

In addition, Civil Construction Company Limited had stopped all sales of explosives to all blasters due to difficulty in procuring, storing and controlling the use by private blasters. As such the decision was no discriminatory to Mr. Marie.

Conclusion: In conclusion, the commission found that Mr. Thomas Marie had breach the conditions of the sale of explosives provided by Civil Construction Company Limited. As such Civil Construction Company limited was justified in giving a warning to Mr. Marie and informing the police of the breach as this was a legal matter. Furthermore, Civil Construction Company Limited had ceased the sale of explosives, the stop of sale applied to all blasters and not just Mr. Marie. Lastly, Civil Construction Company Limited stated that the stop of sale of explosives was due to issues with acquiring, storing and proper monitoring of the use of explosives. Therefore, there was no breach of the Fair Competition Act 2009. Mr. Marie was made aware of the same.