

ANTI-COMPETITIVE BEHAVIOUR IN THE AGRI-FOOD AND STEEL VALUE CHAINS IN THE SOUTH AFRICAN MANUFACTURING SECTOR

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Abstract

Despite the fact that it has existed for over ten years, the Competition Act has had little impact in diluting the dominance of big business in the South African manufacturing sector. This study sought to ascertain the extent of anti-competitive behaviour in two sub-sectors of the South African manufacturing sector and to determine whether the competition authorities should focus on supporting SMEs as competitors to big business. The findings indicated that SMEs in these two sub-sectors face unique difficulties in fighting anti-competitive behaviour, and that there is scope for the competition authorities to facilitate the participation of SMEs in the economy through the use of tools such as market inquiries, the Corporate Leniency Policy and structural remedies.

Keywords

Agri-food, Chicago School, competition policy, oligopoly, Ordoliberalist approach, Porter's Five Force Framework, SMEs, steel

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1. INTRODUCTION

The legacy of apartheid has resulted in the South African economy being dominated by large businesses, making it difficult for smaller entities to grow (Chabane, Machaka, Molaba, Roberts & Taka, 2003; Hartzenberg, 2006; Kampel, 2005). Since the advent of democracy in 1994, there has been an awareness of the importance of small and medium enterprises (SMEs), and their promotion has become a policy goal of the South African government (Bradford, 2007; Ligthelm, 2008). SMEs are described in the National Small Business Act (Republic of South Africa, 1996a) as those having annual turnovers of up to R50 million and employing up to 200 people.

This study seeks to question the usefulness of competition policy in facilitating the participation of SMEs in two sub-sectors of the South African manufacturing sector – the agri-food sub-sector and the steel sub-sector. Given the financial resources and time needed for SMEs to bring a case against big business (Kampel, 2005), SMEs tend to opt out of markets dominated by big business or simply tolerate anti-competitive behaviour (Chabane et al., 2003; Hartzenberg, 2006) instead of relying on remedies provided for in the Competition Act (Republic of South Africa, 1998),

Accordingly, the objectives of the study were to ascertain the extent of anti-competitive behaviour in the agri-food and steel value chains, and to determine whether the competition authorities should protect SMEs as a specific class of competitor. The research questions addressed in this study are the following:

- To what extent are SMEs involved in, or victims of, anti-competitive behaviour in the agri-food and steel value chains?
- Given that SMEs lack the resources to use the remedies contained in the Competition Act, should the competition authorities protect SMEs as a specific class of competitor?

2. BACKGROUND

2.1 Performance of the competition authorities in assisting SMEs

Criticism that the competition authorities were inaccessible increased following the recent rulings of the Competition Appeal Court (CAC) and the Supreme Court of Appeal (SCA). These rulings held that the Competition Commission was not allowed to widen a complaint against one party to include other parties – and so initiate an industry-wide investigation – unless it had the evidence to do so (CAC, 2011). Thus, the SCA ruled that the Competition Commission could not expand a milk cartel investigation against Clover, Parmalat and Nestlé to include two smaller processors, Woodlands Dairy and Milkwood Dairy (SCA, 2010). The SCA ruling was upheld by the CAC (2011), which noted that the Competition Commission could not expand an abuse of dominance case against Sasol to include allegations that other fertiliser producers, Yara SA and Omnia Fertiliser, were colluding with Sasol on fixing fertiliser prices (CAC, 2011). The rulings have been criticised for curtailing the power of the Competition Commission to launch industry-wide investigations (Bleby, 2011; Marais, 2010).

SMEs have also not successfully used the remedies of the Competition Act (Republic of South Africa, 1998) to tackle anti-competitive behaviour, namely horizontal and vertical restricted practices and abuse of dominance (Hartzenberg, 2006). This is because it is difficult to prove

collusion in oligopolistic economies where big business can coordinate its behaviour without formal agreements (Albors-Llorens, 2002-2003). The remedies also require proof that the anti-competitive conduct threatens the competitiveness of a market sector, and not only the individual SME (Hartzenberg, 2006; Kampel, 2005).

Despite the aforementioned criticisms, ten years may be too short a period in which to judge the efficacy of the competition authorities. Reflecting on the performance of the Competition Commission in its first decade, Deputy Commissioner Tembinkosi Bonakele explained that the initial focus was to set up the institution to control mergers as opposed to combatting anti-competitive practices (Competition Commission, 2009a). However, in 2006, the Competition Commission took the strategic decision to proactively tackle anti-competitive behaviour (Competition Commission, 2009a), and identified priority sectors for investigation, including Food and Agro-Processing, Intermediate Industrial Products and Infrastructure and Construction (Competition Commission, 2010). The Competition Amendment Act (Republic of South Africa, 2009) also introduced new remedies: for example, the market inquiry provision which allows the Competition Commission to initiate investigations into anti-competitive behaviour, and the Corporate Leniency Policy, which grants immunity from prosecution to cartel members who disclose cartel activities (Competition Commission, 2008; 2009b). These remedies supplement the authorities' ability to impose structural remedies to dilute the influence of dominant firms in a market (Motta, 2009).

2.2 Competition legislation as a means of achieving socio-economic objectives

Reekie (1999) earlier argued that socio-economic objectives can better be achieved through instruments other than competition legislation. In this respect, Reekie (1999) supports a narrow definition of competition policy which is common in the United States. The 1992 United States Department of Justice's Horizontal Merger Guidelines state that the aim of competition policy is economic efficiency and consumer welfare (Chabane et al., 2003; Theron, 2001). This narrow view, known as the Chicago School approach (Cook, 2002; Fox, 2003; Jones & Sufrin, 2011), is tolerant of monopolies if they are justified by economies of scale (Cook, 2002) or if they promote superior performance (Griffith, 2000). The efficient monopoly argument discourages interference in monopolies unless consumer welfare suffers, even if this is at the expense of smaller competitors (Fox, 2007; Jones & Sufrin, 2011).

Contrary to the Chicago School, European Union Competition legislation recognises that a monopoly may be anti-competitive if it restricts SME development (Fox, 2003; Jones & Sufrin, 2011). The European approach, also known as the Ordoliberalist approach, acknowledges that SMEs may need to be protected against monopolies in order to create a more equitable economy (Jones & Sufrin, 2011). It can be argued that this approach is appropriate for developing countries and emerging market economies, which are often dominated by businesses that achieved their dominance through state support (Cook, 2002; Ramburuth & Roberts, 2009). In such economies, unless there is state regulation, big business can retain its power to 'exploit and exclude' (Fox, 2007:229).

However, adopting a pro-SME approach contains threats to competition policy, as it can create the impression that the competition authorities are biased against big business (Jones & Sufrin, 2011). The approach may also endanger consumer welfare if large firms are already competing against each other (Kampel, 2005). Thus, Fox (2003) and Jones and Sufrin (2011) argue that

competition policy should protect competition and consumers, but not competitors, even if these competitors are SMEs.

2.3 Frameworks to analyse competition in an industry

The lack of public statistics to assess concentration levels in the South African manufacturing sector meant that the present study had to rely on qualitative frameworks to analyse industry competitiveness. Two such frameworks are value chain analysis (Kaplinsky, 2004; Machaka & Roberts, 2003) and Porter's Five Forces Framework (Gamble & Thompson, 2009; Narayanan & Fahey, 2005).

Value chain analysis has its roots in the work of Michael Porter (1979; 1980), who linked the profitability of a firm to the firm's environment and its strategy to accommodate this environment. A firm's environment comprises the enterprises with which it interacts, and all the enterprises together generate a value chain of activities needed to create, market, distribute and finally dispose of a product (Kaplinsky, 2004).

Porter (1979; 1980) and Porter and Kramer (2011) note that there are five ways in which participants in a value chain can impact a firm. These impacts, or forces, determine the level of competition within an industry and the competitive strategies available to a firm. The five forces are explained by Porter's Five Forces Framework (or 'Porter's FFF'), which is set out in FIGURE 1.

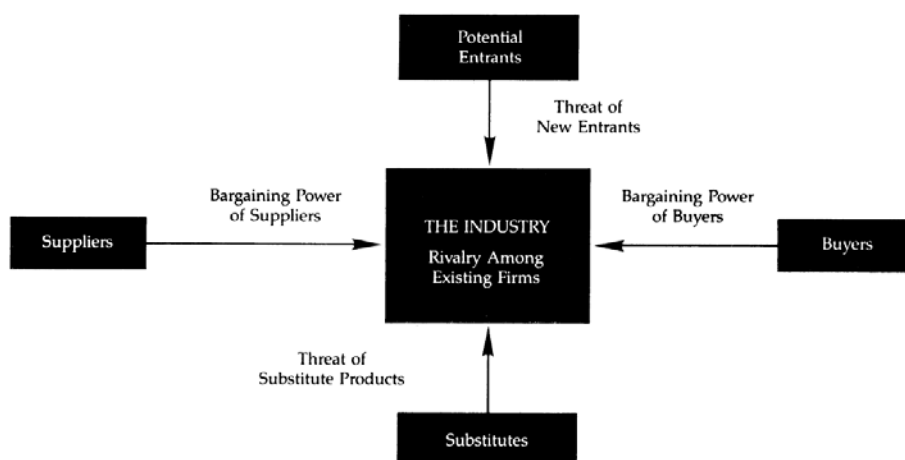


FIGURE 1: The five forces driving industry competition

Source: Porter (1980)

The usefulness of Porter's FFF in ascertaining the extent of competition in an industry has been criticised for not accommodating the realities of developing countries. Narayanan and Fahey (2005) argue that Porter's FFF assumes a high degree of similarity between rivals in an industry and between rivals and new entrants and ignores the reality that, in developing countries, SMEs operate from a disadvantaged position (Ramburuth & Roberts, 2009).

Value chains are distinguished by their governing procedures. The firm governing the chain controls how other participants enter, innovate or grow in the chain (Altenburg, 2006a; Kaplinsky, 2004; Ponte & Gibbon, 2005). Governance turns a value-chain analysis into an

analytical tool (Roberts, 2004), as governance determines how profits are shared in the chain and how the chain evolves (Altenburg, 2006a). Thus, value chain analysis can reveal those parties who inhibit growth in the chain (Barnes & Morris, 2004).

Governance distinguishes buyer-driven chains from producer-driven chains (Ponte & Gibbon, 2005). In buyer-driven chains, buyers (such as food retailers) own and control assets, such as brands and logistical infrastructure that allow them to co-ordinate other players (Barnes & Morris, 2004). In producer-driven chains, upstream participants control key inputs and/or technology (Barnes & Morris, 2004; Altenburg, 2006b). Examples include the steel industry, where the production and pricing of the steel used in manufacturing is controlled by fewer than five players.

2.4 The South African manufacturing sector

This study examines two manufacturing sub-sectors classified according to the Standard Industry Classification (SIC) used by the Department of Trade and Industry, namely the food and beverage sub-sector (SIC 300) and the iron and steel and metal products sub-sector (SIC 350). These sub-sectors fall within the Competition Commission's priority sectors, being the Food and Agro-Processing priority sector and the Intermediate and Industrial Products and the Infrastructure and Construction sectors.

2.4.1 The agri-food value chain

The agri-food value chain covers food production from the farm to the consumer. The section of the value chain reflecting the relationship between agro-processors and retailers has been dominated by research that concentrates on the grain value chain. A search of the Business Source Premier and JStor databases revealed that peer-reviewed research published from 1 January 2000 to 30 September 2011 is dominated by Kirsten, Louw and Traub of the University of Pretoria, Jayne of Michigan State University and Roberts and Chabane of the Competition Commission. As the present study did not aim to undertake primary research on value chains, the study concentrated on the existing research, as secondary data, depicted in FIGURE 2.

The highly concentrated nature of food processing and retailing in South Africa is largely attributed to apartheid-era agricultural marketing control boards (Mather, 2005; Ramburuth & Roberts, 2009). These boards restricted entrants into the market (Traub & Jayne, 2008) and so constrained competition (Abu & Kirsten, 2009). The enactment of the Marketing of Agricultural Products Act (Republic of South Africa, 1996b) deregulated the agricultural sector and created expectations that the market would open up for SME processors as had happened in Zimbabwe, Zambia, Mozambique and Kenya (Traub & Jayne, 2008). Instead, an oligopolistic market arose in the maize-milling (Abu & Kirsten, 2009), dairy (Cutts & Kirsten, 2006) and grain-storage (Traub & Jayne, 2008) industries.

While oligopolies per se are not anti-competitive, a market constituted of few firms is conducive to anti-competitive conduct (Jones & Sufrin, 2011). Cutts and Kirsten (2006) confirmed this conclusion for the South African grain and dairy markets, a conclusion later supported by Alemu and Ogundeji (2010). Both sets of researchers found that large food manufacturers and retailers quickly passed on higher commodity prices to consumers, but delayed passing on lower prices (Alemu & Ogundeji, 2010; Cutts & Kirsten, 2006).

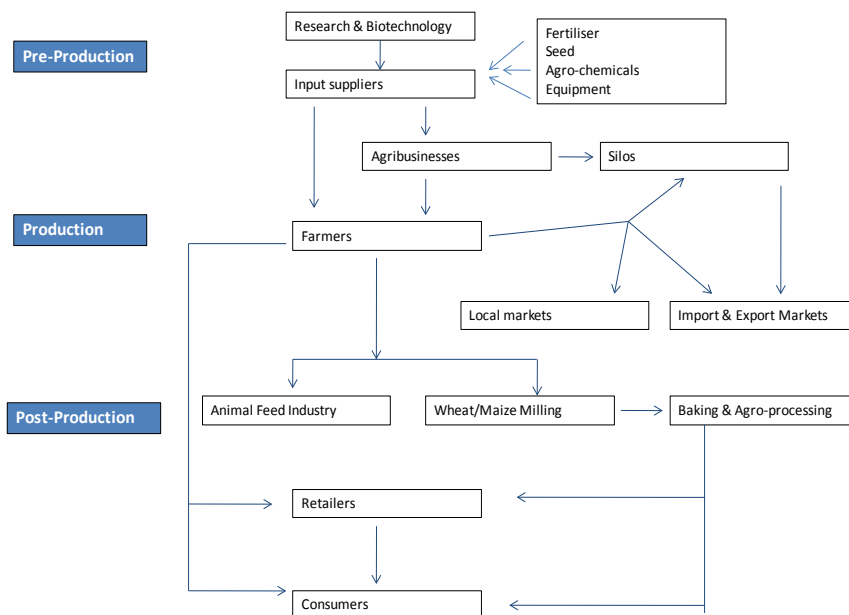


FIGURE 2: Diagrammatic representation of the South African agri-food value chain

Source: Adapted from Louw, Geyser, Trotskie, Van der Merwe, Scheltema and Nicholson (2010a)

A search from 1 January 2000 to 31 August 2011 of the Business Source Premier and JStor databases revealed that Abu and Kirsten (2009) produced the only published academic study on the competitiveness of small South African maize millers. In addition to this peer-reviewed study, there were also two non peer-reviewed studies commissioned by the National Agricultural Marketing Council (hereafter ‘the NAMC’), namely those undertaken by Louw, Geyser, Trotskie, Van der Merwe, Scheltema and Nicholson (2010a) and Louw, Geyser and Schoeman (2010b).

Abu and Kirsten (2009) conclude that poor profitability restricts the growth of SME millers, as they could not achieve economies of scale. However, in the NAMC studies, the lack of growth of SMEs was attributed to an inability to compete against the large mills that have the capital to ride out grain price fluctuations and engage in price wars with SME millers (Louw et al., 2010a; 2010b). Thus, Louw et al. (2010b) conclude that SME participants should be protected against larger millers.

2.4.2 The steel value chain

The Competition Commission (2009) prioritised the Intermediate Industrial Products and the Construction and Infrastructure sectors for investigation. The steel value chain falls into both sectors, as steel is a manufacturing input and a construction building material. A representation of the steel value chain is set out in FIGURE 3.

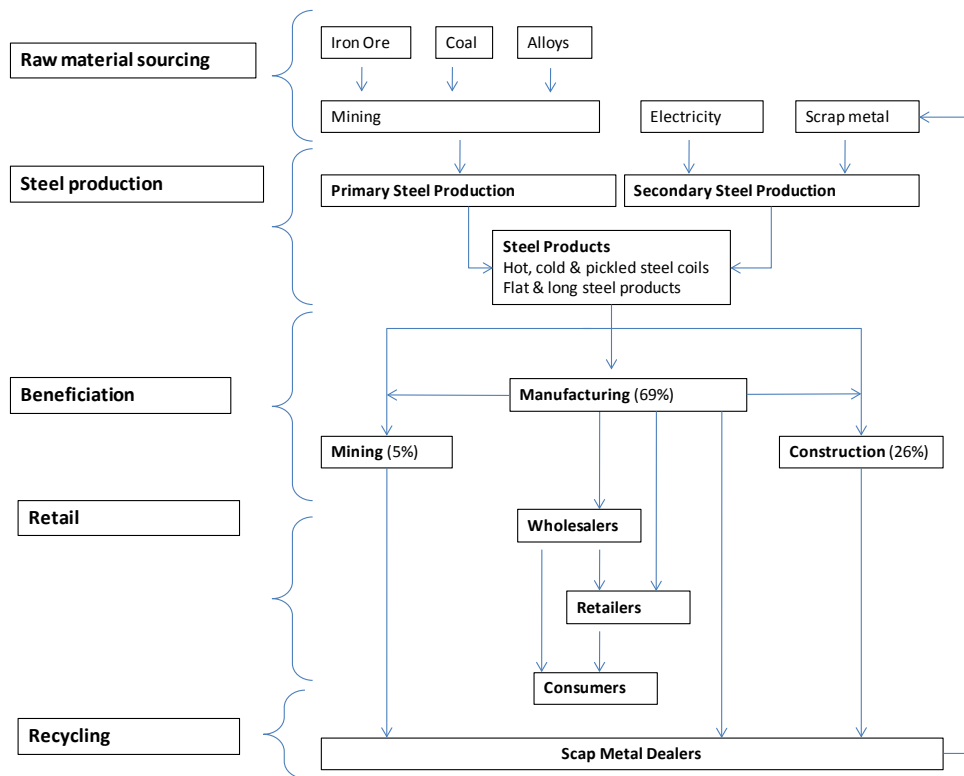


FIGURE 3: Diagrammatic representation of the South African steel value chain

Source: *The World Steel Association (2008)*

A search of the Business Source Premier and Jstor databases for peer-reviewed articles published from 1 January 2000 to 31 August 2011 identified little academic research on anti-competitive behaviour in the South African steel value chain. The research that does exist is dominated by Roberts and Chabane of the Competition Commission.

The South African steel value chain is dominated by an upstream sector constituted of steel mills such as Arcelor Mittal SA. This sector is capital-intensive and requires economies of scale. The downstream sector adds value by using steel in manufacturing, mining and construction (Walker & Jourdan, 2003). This sector is fragmented and labour-intensive (Bezuidenhout & Cock, 2009; Roberts & Rustomjee, 2009), and it is also underdeveloped despite producing higher-value products (Walker & Jourdan, 2003).

The commanding role of upstream players in the South African economy can be attributed to the Minerals and Energy Complex (hereafter 'the MEC'), which characterised the South African economy until the 1990s (Bezuidenhout & Cock, 2009). The MEC arose from the apartheid government's requirement for self-sufficiency in the supply of energy and manufacturing inputs (such as steel and chemicals) (Roberts & Rustomjee, 2009). The MEC focus created an industrial policy that favoured capital-intensive mining industries and the manufacturing enterprises based on these industries. The result is that the local economy has not diversified away from mined resources (Fine & Rustomjee, 1996).

3. METHODOLOGY

The research design was based on the methodology used by Clarke, Evenett and Lucenti (2005) and entailed constructing a database of newspaper articles on anti-competitive practices in developing countries. The scope of the study was restricted to the aforementioned two sub-sectors, and the database contained only English-language South African newspaper article and Competition Commission press releases published from 1 January 2005 to 31 March 2011 on the Newsmonitor database. Where media reports lacked sufficient detail, they were cross-checked against the press releases, a practice advocated by Zikmund (2003). This tactic overcame the shortcoming of secondary data not always being accurate (Clarke et al., 2005).

In constructing their database, Clarke et al. (2005) used a predetermined list of anti-competitive practices. Such a procedure was not adopted here, as it yielded too few results on the Newsmonitor database. In addition, all Newsmonitor results referred to instances of anti-competitive behaviour under Competition Commission investigation. Accordingly, the study's database was constructed solely from articles found in a subsidiary Newsmonitor database called 'Competition Commission'. An open coding strategy was adopted, with categories based on the story grammar framework developed by Franzosi (1989; 1994; 1998; 2010a). Franzosi's methodology is suited to analysing newspaper articles (Elliott, 2005).

In analysing each article or press release, every incident of anti-competitive behaviour was categorised into the story grammar structure of who (the subject, or the actor being accused of anti-competitive behaviour), did what (the verb, or the anti-competitive behaviour), to whom (the object complaining of the anti-competitive behaviour), when (the time), where (the sub-sector of the economy) and why (being the motivation given for the behaviour) (cf. Franzosi, 2010b; Wada, 2005). The codified information was then quantified (cf. Franzosi, 1989; Wada, 2005).

4. DISCUSSION OF FINDINGS

The objectives of the present study were to ascertain the extent to which SMEs were participants in, or victims of, anti-competitive behaviour in the agri-food and steel value chains and to determine whether the competition authorities should protect SMEs as a specific class of competitor given that they lack the resources to make full use of the remedies contained in the Competition Act. The data is of such a nature that it was deemed appropriate to present the findings and discussion simultaneously.

4.1 The extent of anti-competitive behaviour against SMEs

4.1.1 The agri-food value chain

Eighteen instances of anti-competitive conduct were reported in the agri-food value chain. These cases are listed in APPENDIX A have been summarised on a value-chain diagramme in FIGURE 4. It can be seen that anti-competitive behaviour was not restricted to one area of the value chain, an indicator that the description of the agri-food value chain as buyer-driven (Altenburg, 2006b; Ponte & Gibbon, 2005) is too simplistic.

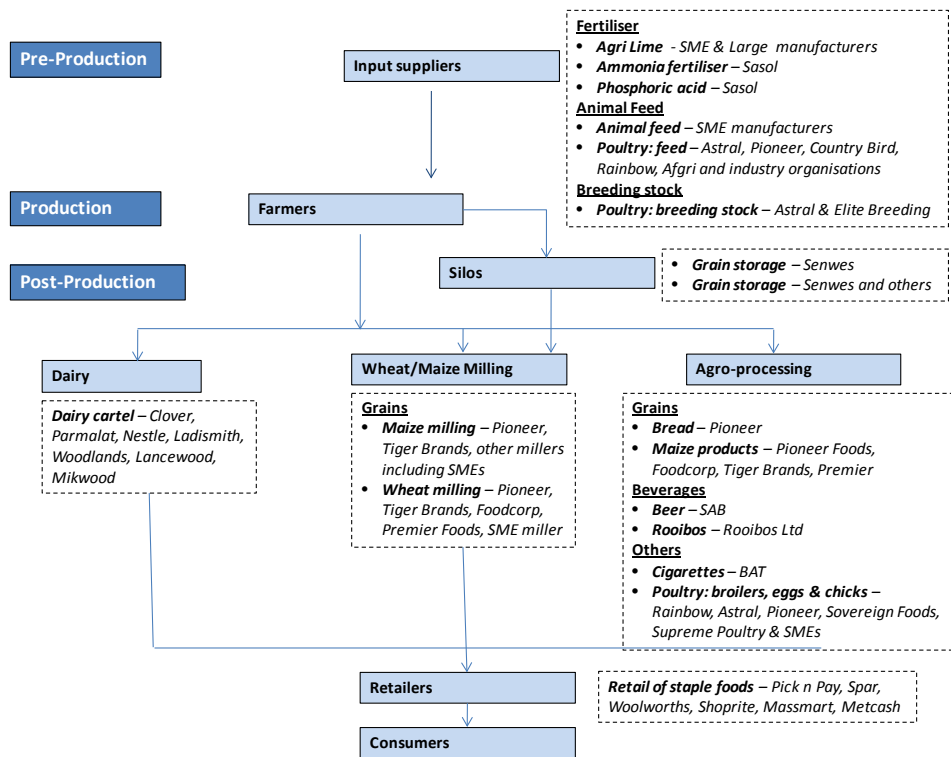


FIGURE 4: Cases considered in the agri-food value chain

Source: Compiled by authors

FIGURE 4 further lists the entities accused of anti-competitive behaviour, which were large manufacturers in 11 instances, and SME manufacturers in four instances. SMEs reported being bullied into participating in cartels in two of the four instances, namely the wheat and maize milling cases. This finding confirms the observation that SMEs need to adopt anti-competitive behaviour if they operate in an industry where such behaviour is common (Iheduru, 2004). While the bullying of SMEs has been identified as common in oligopolistic markets (Dabbah, 2010), SMEs also voluntarily participated in anti-competitive behaviour in the agri-lime, animal feed and broiler cases. These cases provide evidence against an Ordoliberalist approach, as they highlight the danger that protecting competitors such as SMEs can lead to the protection of competitors from competition itself (Fox, 2003).

The prevalence of oligopolies in the agri-food value chain was reported earlier (cf. Abu & Kirsten, 2009; Cutts & Kirsten, 2006). The findings of the present study indicate that oligopolies in the agri-food chain promote anti-competitive behaviour. The predominant type of anti-competitive conduct found in the agri-food chain was exclusionary conduct or behaviour that can only be performed by entities who dominate a market. In addition, it was found that cartels in the agri-food value chain were of the longest duration of cartels noted, a factor attributed to the legacy of state support in that value chain (cf. Mather, 2005; Ramburuth & Roberts, 2009). The exclusionary conduct cases provide evidence to argue against the adoption of a strict Chicago School approach (Cook, 2002; Fox, 2003; Jones & Sufrin, 2011), which advocates against the competition authorities intervening in an economy to support SMEs.

SME manufacturers featured among the complainants who initiated Competition Commission cases in the bread, maize milling and ammonia-based fertiliser cases. The bread cartel case involved an SME bakery that alerted the Competition Commission to the fact that Pioneer Foods was threatening to stop flour supplies to bakeries that did not sell bread at pre-determined prices (Crotty, 2010). In the ammonia-based fertiliser case, two SME fertiliser blenders, Nutri-Flo and Profert, took on Sasol at great cost. In that case, the Competition Tribunal (2003) ruled in favour of the SMEs. However, the SMEs lacked the resources to pursue the case when Sasol appealed the ruling. The aforementioned cases illustrate that SMEs cannot compete equally as rivals against big business (Narayanan & Fahery, 2005), especially when they act against entities such as Sasol, which, historically, achieved supremacy through state support (Ramburuth & Roberts, 2009).

4.1.2 The steel value chain

Ten cases of anti-competitive behaviour were reported in the steel value chain during the period 1 January 2005 to 31 March 2011. These cases are noted in APPENDIX B, and have been illustrated in a value-chain diagramme in FIGURE 5.

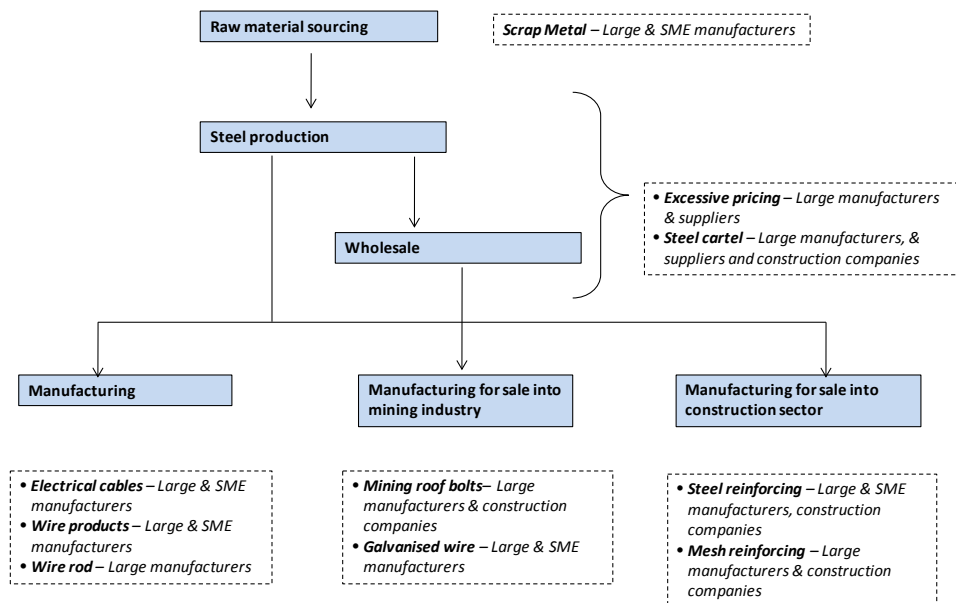


Figure 5: Cases considered in the steel value chain

Source: Compiled by authors

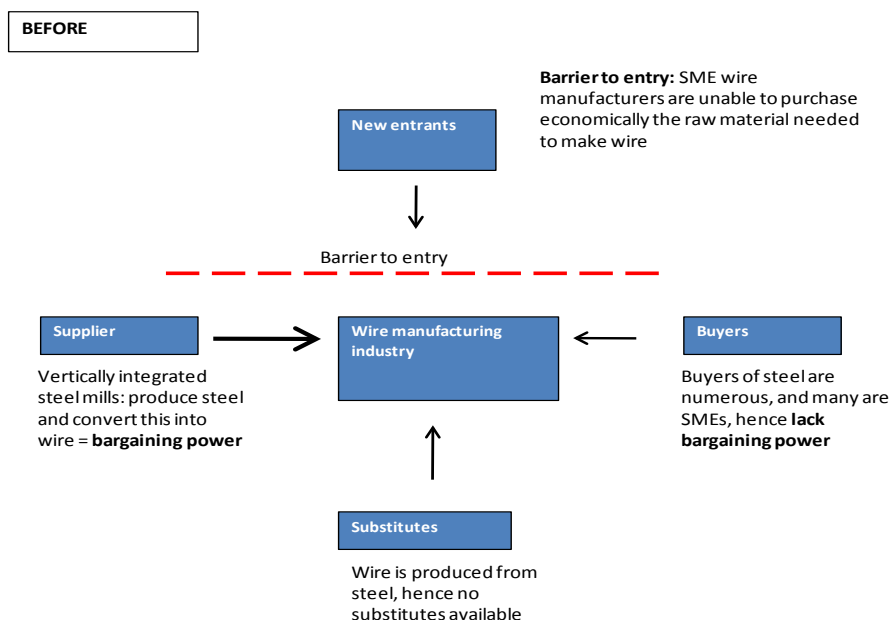
FIGURE 5 indicates that the majority of cases occurred in industries involved in the production of either primary steel or steel products that are sold into other industries. This is indicative of the producer-driven nature of the value chain, where power is concentrated upstream (Kaplinsky, 2004).

Large manufacturers were accused of anti-competitive conduct in each case considered in the steel value chain. However, SME manufacturers also participated in anti-competitive behaviour

in six of the ten cases. Moreover, unlike the cases considered in the agri-food value chain, there was no evidence of SME manufacturers being bullied into collusion.

The participation of SME manufacturers in anti-competitive conduct once again confirms the observation made that SMEs need to resort to such behaviour to survive if they operate in a monopolistic value chain (Iheduru, 2004). An example of this can be seen in the wire products case, where ten SME manufacturers colluded in a buyer's group (known in the hearings as 'the Allens Meshco Group') in order to increase their bargaining power against the vertically integrated steel mills, Cape Gate, Scaw and Arcelor Mittal SA.

Using Porter's Five Forces Framework (Porter's FFF), the actions of the Allens Meshco buyers group can be described as set out in FIGURE 6.



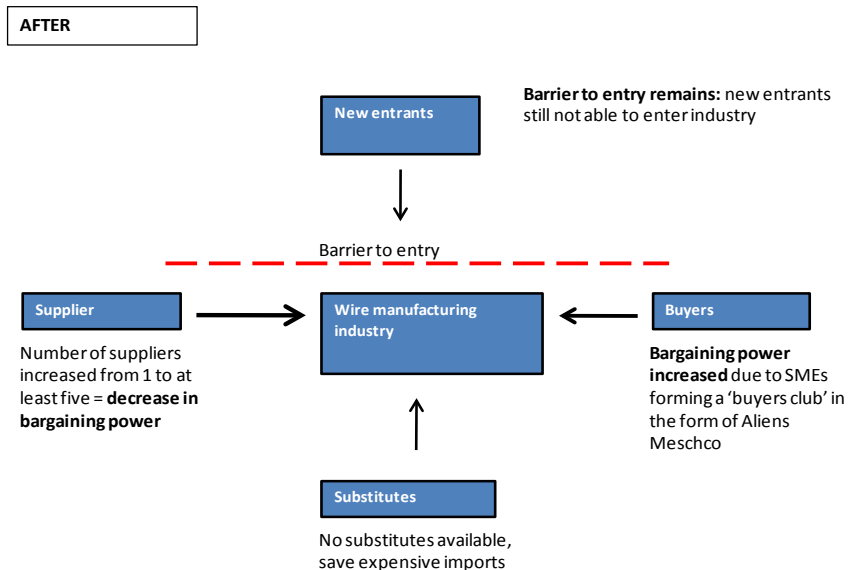


FIGURE 6: Actions of the Allens Meshco group in counteracting anti-competitive conduct in the wire Industry

Source: *Compiled by authors*

FIGURE 6 indicates how a barrier to entry to wire manufacturers was created by steel mills selling wire from steel they had produced. The steel buyers were too numerous to bargain on prices and so created a buyers' group. This action did not remedy the anti-competitive structure of the industry, as barriers to entry remained and SME buyers that were not part of the group did not benefit from the new buying power.

Save for one case, namely the wire-rod case, SME manufacturers were not among the complainants who triggered the Competition Commission inquiries in the steel value chain. However, as is the case in the agri-food value chain, SME manufacturers benefited from the cases initiated by big business or by the Competition Commission. Noteworthy is the excessive pricing steel case, as steel is a key manufacturing input for downstream SMEs. While the Competition Tribunal ruled against Arcelor Mittal SA in this instance, it was remitted back to the Competition Tribunal in 2007 by the appeal court with an order that the Tribunal reconsider its excessive pricing determination. The matter remains unresolved, and the case has been used to criticise the efficacy of competition policy in curbing the abuse of dominance in the steel industry (Bezuidenhout & Cock, 2009).

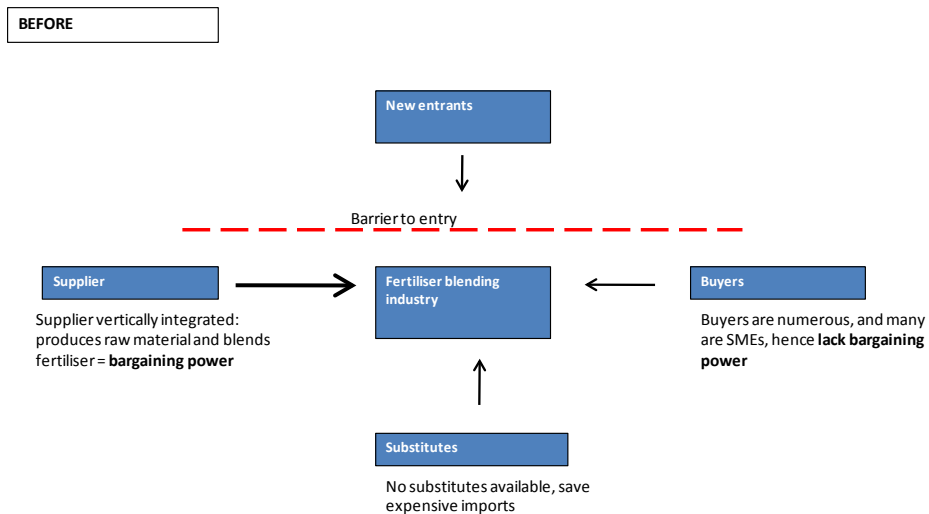
4.2 The need for competition authorities to focus on SMEs

At the heart of this study is the question relating to competition policy, namely whether it is sufficient for competition policy to concern itself with protecting competition as a process, or whether there is also a need for such policy to protect individual categories of competitors such as SMEs (Fox, 2003; Jones & Sufrin, 2011).

The cases considered have shown that both big business and SMEs were victims of anti-competitive conduct. However, the experiences of SMEs in tackling this conduct are unique. SMEs generally lack the resources to tackle anti-competitive behaviour or to sustain an action once it has been initiated. SMEs are also bullied into participating in anti-competitive behaviour.

The focus on priority sectors has enabled the competition authorities to initiate investigations into anti-competitive behaviour in industries where SMEs are likely to be affected by such behaviour. The authorities have also used the Corporate Leniency Policy to investigate and prosecute cartels that are inimical to SME development. These investigations have saved SMEs the time and cost of fighting such cartels. The competition authorities have also embarked on structural remedies to dilute the power of dominant companies. Thus, in the ammonia-fertiliser case, a structural remedy was imposed on Sasol that, among other things, compelled Sasol to sell its fertiliser blending units to entities approved of by the Competition Commission. The aim of this remedy was to dismantle vertical integration by Sasol in the fertiliser industry and to create opportunities for SMEs to enter the industry.

Using Porter's Five Forces Framework, the impact of the remedy on the industry is demonstrated in FIGURE 7.



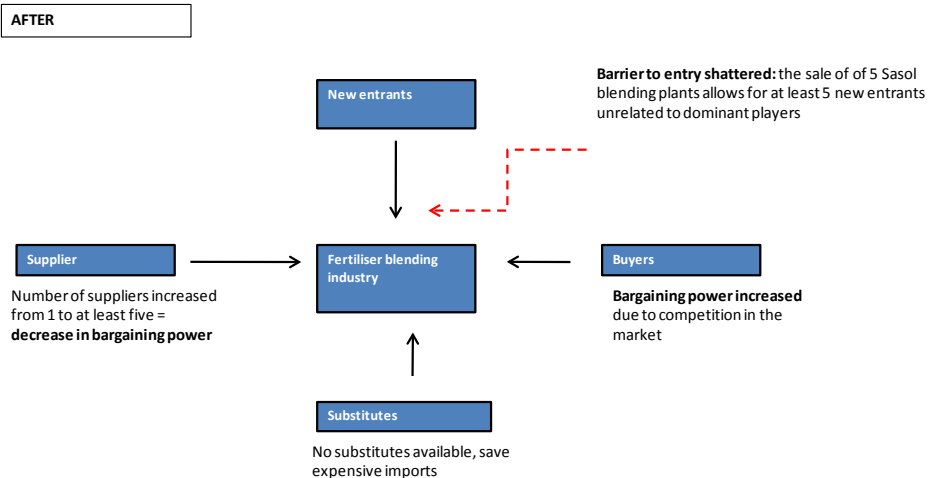


FIGURE 7: Effect of the structural remedy in the Sasol ammonia fertiliser case

Source: *Compiled by authors*

The structural remedy allowed the competition authorities to intervene in the South African fertiliser industry. This interventionist role is in keeping with the Ordoliberalist approach, which requires the competition authorities to consider not only consumer welfare, but also the barriers preventing new entrants into the market (Kampel, 2005).

In summary, the study highlighted that by using tools such as market inquiries, the Corporate Leniency Policy and structural remedies, the authorities can facilitate the participation of SMEs in the economy without making this a specific focus of intervention. However, as noted earlier, it may be premature to judge the performance of the competition authorities in assisting SMEs (Competition Commission, 2009a). Accordingly, it may also be premature to recommend whether the South African competition authorities should adopt a more interventionist approach in achieving the objectives set out in the Competition Act (Republic of South Africa, 1998, Section 2) of facilitating the participation of SMEs in the South African economy.

4.3 Limitations of the study and areas for future research

The study is limited to the manufacturing sector of the South African economy, and, in particular, to only the agri-food and steel value chains. Accordingly, the study does not provide a complete picture of all anti-competitive activity in the South African manufacturing sector, and a more comprehensive study would add value to this discourse.

The database used in this study contained only articles from the Newsmonitor database entitled 'Competition Commission'. Thus, only cases under Commission inquiry, as reported by the press, were investigated. Accordingly, instances of anti-competitive behaviour which had not yet come to the attention of the authorities were not included. Therefore, there could be more anti-competitive practices in the agri-food and steel value chains than are reported on in this study.

Little academic research has been conducted on the extent of anti-competitive behaviour in the agri-food and steel value chains, and that which does exist has been produced by a small number of researchers. In the agri-food value chain, in particular, peer-reviewed research has

focused only on the grain value chain. Deepening academic study relating to these value chains will generate a more accurate view of how entrenched anti-competitive behaviour has become in these value chains.

In ascertaining whether the competition authorities should focus specifically on assisting SMEs, it is necessary to consider the tools which the competition authorities can use to create a more competitive environment without having a specific focus on SMEs. These tools, which include market inquiries, the Corporate Leniency Policy and structural remedies, are fairly new, and research on their impact in facilitating the participation of SMEs in the economy has yet to build up. Accordingly, it is recommended that the impact of the use of these tools for SME development be monitored and further researched.

5. CONCLUSION

The study sought to answer the following questions:

- To what extent are SMEs involved in, or victims of, anti-competitive behaviour in the agri-food and steel value chains?
- Given that SMEs lack the resources to use the remedies contained in the Competition Act, should the competition authorities protect SMEs as a specific class of competitor?

The study has indicated that SMEs were both victims of and voluntary participants in anti-competitive behaviour in both the agri-food and steel value chains in the South African manufacturing sector. The participation of SMEs in such behaviour suggests that the competition authorities should not focus specifically on SMEs, because there is the danger that, in doing so, they could protect SMEs from competition itself. However, it was also found that SMEs face unique difficulties in bringing cases to the attention of the competition authorities. SMEs have been spared the cost and time of fighting cases of anti-competitive behaviour by the competition authorities initiating investigations in industries which are likely to be affected by anti-competitive behaviour, and the authorities have used tools such as the Corporate Leniency Policy and structural remedies to tackle cartels, which are inimical to SME development. These tools are still new, and further research into their use by the competition authorities is recommended in order to determine whether the competition authorities should adopt a more interventionist approach to facilitate the participation of SMEs in the economy.

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TABLE A: Cases considered in the agri-food value chain

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Agri/lime	HI Pistorius & Co., Kalkor, Plaaslike Boerdienste, Fertiliser Assoc of SA, Grasland Ondernemings	Large manufacturer SME manufacturer	Comp Com initiated – part of food value chain investigation	NA	Market allocation, price fixing, retail price maintenance	SME restricted: high input prices threaten viability Cartel may include SMEs
Ammonia-based fertiliser	Sasol Nitro, Omnia, Kynoch/Yara	Large manufacturers	Nutri-Flo, Profert	SME buyers	Exclusionary conduct, price discrimination	SME fought case
Animal feed	Zedek Trading, Anix Trading	SME manufacturers	National Treasury	Government buyers	Collusive tendering	SME part of cartel: colluded on tenders
Beer	SAB Miller	Large manufacturer	Big Daddy's Group	Large distributor	Exclusionary conduct, market allocation, price discrimination, price fixing	Details not reported
Bread	Pioneer Foods	Large manufacturer	Bakery in Mossel Bay and Imraan Ismail Mukkadam	SME manufacturer SME retailer	Exclusionary conduct, price fixing	SME alerted Comp Com SME threatened: Pioneer threatened to stop supplying independent bakeries if they did not charge the Pioneer prices
Cigarettes	British American Tobacco SA	Large manufacturer	Japan Tobacco International	Large competitor	Exclusionary conduct	Details not reported
Dairy products	Clover, Clover Industries, Parmalat, Ladismith Cheese, Woodlands, Lancewood, Nestlé SA, Milkwood	Large buyer	Louise Malherbe	SME supplier	Exclusive supply agreements, information sharing, price fixing, restricted practice	SME alerted Comp Com SME threatened: suppliers threatened with cancellation of entire delivery contract if they did not supply Clover or Parmalat

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Fruit exports	Mediterranean Shipping Company, Sarmarine, Maersk, Pacific International, CSAV, SA, DAL Deutsche SA, MISC Berhad, Mitsui Osk Lines	Large suppliers	Fruit SA	SME buyers	Price fixing	Details not reported
Grain storage	Senwes, Afgri, Suidwes, NWK, OVK, VKB	Large suppliers	CTH Trading	SME buyer	Collusion in grain storage tariffs	SME restricted: CTH foreclosed out of the market
Grain storage	Senwes	Large supplier	CTH Trading	SME buyer	Exclusionary conduct, price fixing	SME restricted: Senwes charges farmers who don't deal with the company, higher storage fees; Senwes forecloses grain supplies, creating barriers to entry for other traders
Maize milling	Pioneer Foods, Tiger Brands, Foodcorp (Ruto Mills), Premier Food, Goodrich Milling, Progress Milling, Pride Milling, Westra Milling, Brenner Mills, Blinkwater Mills, TWK Milling, NWK Milling, Carolina Mills, Kaeli Foods, Bothaville Milling, Paramount Mills, Keystone Milling	Large manufacturers SME manufacturers	Small bakers and retailers	SME manufacturers SME buyers (retailers)	Exclusionary conduct, market allocation, price fixing	SME part of cartel: Threatened not to approach the Comp Com, while the enterprise was small it could avoid joining the cartel but as it grew pressure to join increased
Maize products	Pioneer Foods, Foodcorp, Tiger Brands, Premier	Large manufacturers	Comp Com initiated	NA	Information, price fixing	Details not reported

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Phosphoric acid	Foskor, Sasol	Large manufacturers	Animal feed manufacturers, farmers	SME buyers	Excessive pricing, market allocation	SME restricted: raised input costs, restricted choice of raw material suppliers
Poultry feed and products	Nulaid (Pioneer), Rainbow Chickens, Astral Foods, Country Bird, Afagri, SAPA, AFMA	Large manufacturers	Country Bird and Supreme Poultry	Large competitor	Allocation of markets, information sharing	SME restricted: raised key input prices by 25%
Production and sale of eggs, broilers and chicks	Rainbow Farms, Astral Foods, Supreme Poultry, Pioneer Foods, Afagri, Sovereign Foods, Pioneer Hyline SA, Avichick, Eggbert, Top Lay, Fair Acres, Heidel Eggs, Lund Eggs, Waterglen Pluimvee, Paardebert Flinlwink, Outeniqua Eggs, Golden Yolk, Rosendal, Nantes Eggs, Eikenhoff, Ellkana, Windmeul Eggs, Morningside Sunrise Eggs, Eden Rock, Cocorico, Daybreak Farms (Afagri)	Large manufacturers SME manufacturers	Lenience application	NA	Allocation of markets, exclusive supply agreements, information sharing, price fixing	SME part of cartel
Production of breeding stock	Astral Operations (Ross Poultry, National Chicks, Meadow Feeds), and its subsidiary, Elite Breeding Farms (a partnership between Astral and Country Bird)	Large producers	Country Bird and Supreme Poultry	Large competitor	Allocation of markets, excessive pricing, exclusionary conduct, fixing trading conditions	Details not reported

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Roobos	Roobos Ltd.	Large buyer	Coetzee & Coetzee	SME supplier	Exclusive supply agreements	SME restricted: New entrants struggle to enter market because Roobos has exclusive supply agreement with the four main packers. SMEs then forced to supply export market which exposes them to vulnerability to currency fluctuations
Staple foods	Pick n Pay, Spar, Woolworths, Shoprite Checkers, Massmart, Metcash	Large buyers	Comp Com initiated – inquiry into food value chain	NA	Abuse of buying power, category management, exclusive lease agreements, information sharing, price fixing	SME restricted: Alleged retailers' practices make it difficult for SME to supply retailers
Wheat milling	Pioneer Foods, Tiger Brands, Foodcorp (Ruto Mills), Premier Food, Goodrich Milling	Large manufacturers SME manufacturers	Small bakers and retailers	SME manufacturer SME retailer	Collusion, market allocation, price fixing	SME part of cartel: Keystone presented evidence that smaller mills are intimidated into playing along with cartels

Source: Authors' interpretation

TABLE B: Cases considered in the steel value chain

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Electrical cables	Abedare Cables (Altron), Southern Ocean Electric Wire Company (Ocean Holding), Alvern Cables, Tuisa Cables	Large manufacturers, Small manufacturers	Comp Com initiated inquiry	NA	Collusive tendering, market allocation, price fixing	Details not reported
Galvanised wire products	Allens Meshco, Wireforce Steelbar, Hendok, Galvewire, Independent Galvanising and Meshrite	Large manufacturers, SME manufacturers	Harmony Gold, African Cable, Malesela Technologies	Large miners	Collusive tendering, market allocation, price fixing	Cartel may include SMEs
Mesh reinforcing	Steeldale Mesh (Aveng), Capital Africa Steel, Vulcania Reinforcing, BRC Mesh Reinforcing (Murray & Roberts)	Large manufacturer, Large construction companies	Lenience application	NA	Market allocation, price fixing	Details not reported
Mining roof bolts	RSC Ekusana Mining (Murray & Roberts), Africa Duraset (Aveng), Dywidag Systems International, Videx Wire Products	Large manufacturer, Large construction companies	De Beers, Goldfields, Harmony, Anglo American, Lomin, Sasol Mining	Larger miners	Collusive tendering, market allocation	Details not reported
Steel reinforcing	Aveng (Africa), Koedoespoort Reinforcing Steel, Witbank Reinforcing and Wire Products, Nelspruit Reinforcing	Large manufacturers, SME manufacturers	Merger investigation	NA	Information sharing, price fixing	SME part of cartel: alleged that merger application was motivated by desire to formalise cartel

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Wire products	Supplies, Silvertown Reinforcing and Wire Products					
	Cape Gate, Allens Meshco, Hendok, Wireforce Steelbar, Agriwire, Agriwire North, Agriwire Uptington, Cape Wire, Forest Wire, Independent Galvanising, Associated Wire Industries, Consolidated Wire Industries (Scaw)	Large manufacturers, SME manufacturers	CKW Wire Products, Overberg Agri Co-operative	SME retailer	Collusive tendering, market allocation, price fixing	SME part of cartel: Comp Com alleges smaller players have organised themselves into a cartel
	Wire rod	Large manufacturers	Barnes Fencing	SME manufacturer	Exclusionary conduct, market allocation, price fixing	Details not reported
Flat steel	Arcelor-Mittal, Macsteel	Large manufacturer, Large supplier (retail)	Harmony Gold, DRD Gold	Large miners	Excessive pricing	SME restricted: high input prices threaten viability
Scrap metal	SA Metal & Machinery, National Scrap Metal, Ben Jacobs Metals, Power Metals Recyclers, Universal Recycling, Ton Scrap, Scaw SA, Scaw Metals Group, Amalgamated Scrap	Large manufacturers, Large construction companies	Merger investigation	NA	Collusive tendering, fixed trading conditions, market allocation, price fixing	SME restricted: raised input prices for upstream users, prices uncompetitive for downstream suppliers

Subsector	Actor	Actor type	Complainant	Complainant type	Action (anti-competitive conduct)	Reported SME impact
Steel	Metals Recycling, Abbeduto Metals, Ben Jacobs Iron & Steel, Cape Town Iron & Steel Works, The New Reclamation Group					
	Arcelor-Mittal (AMSA), Cape Gate, Cisco (Murray & Roberts), Scaw Metals, Barloworld Robor, Pro Roof Steel, Kulungile Metals, Trident, Macsteel, Highveld Steel & Vanadium	Large manufacturers, Large construction companies	Comp Com initiated – probe of steel price increases	NA	Fixed trading conditions, information sharing, market allocation, price fixing	SME threatened: SMEs that imported steel were later victimised by steel mills by being refused supplies of urgent steel orders

Source: Authors' interpretation