



competitioncommission
south africa

Mergers & Acquisitions Division

Final

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MERGERS & ACQUISITIONS DIVISION SERVICE STANDARDS

1. Introduction

Most advanced and high performance regulatory agencies have service standards which facilitate both internal productivity and external service delivery expectations.

The service standards set out the maximum number of business days that the Competition Commission (the Commission) anticipates to complete its review of notified transactions and is calculated from the business day following the date on which a complete merger notification was filed.

The Commission's obligation to comply with the service standards is conditional upon cooperation from the merging parties during the review process. Importantly service standards should at all times be realistic and in all instances measurable and achievable.

In 2010, the Commission published the Mergers & Acquisitions Division's (M&A) service standards to indicate in advance the likely turnaround times which could be expected in finalising cases.

The service standards published in 2010 are set out in the table below:

Table 1: M&A's current service standards

Category	Average Times	Turnaround
Phase 1		20
Phase 2		45
Phase 3		60

Table 2 below indicates that in many instances, the Commission has not been able to meet these service standards. Of particular concern is the average turnaround time for phase 3 investigations, for example, due to the number of mergers notified as well as the nature and the increasing complexity of these investigations.

Table 2: M&A's performance against service standards, 2010/11 to 2014/15

Category	2010 Service Standards	Average Turnaround Times				
		2010/11	2011/12	2012/13	2013/14	2014/15
Phase 1	20	23	29	24	21	23
Phase 2	45	44	44	44	39	46
Phase 3	60	59	66	64	64	67

Table 3 below reflects the number of mergers notified between 2010 and 2014, by category:

Table 3: Number of mergers notified, 2010/11 to 2014/15

	2010/11	2011/12	2012/13	2013/14	2014/15
Large	60	88	68	95	119
Intermediate	150	186	223	209	260
Small	19	17	33	16	16

Table 4 below reflects the number of mergers notified between 2010 and 2014, by phase:

Table 4: Number of mergers notified by phase, 2010/11 to 2014/15

	2010/11	2011/12	2012/13	2013/14	2014/15
Phase 1	152	202	218	191	234
Phase 2	46	32	81	100	125
Phase 3	31	57	25	29	36

The M&A Division has thus reviewed the current service standards after considering M&A's 2015-2020 Strategic Plan and the 2015/16 Annual Performance Plan, approved by the Minister of Economic Development, as well as challenges noted above.

2. Proposed new service standards

Having considered the anticipated volume of notifications and the increasing complexity of mergers notified, the Commission has adopted the following revised service standards:

Table 5: Revised service standards

Category	2010 service standard	2015 service standard
Phase 1	20	20
Phase 2	45	45
Phase 3 (intermediate)	60	60
Phase 3 (large)	Not applicable	120

The need for revisions to the current turnaround times for large mergers (Phase 3) is more obvious if consideration is given to the amount of time taken to review large mergers. Table 6 shows the average turnaround times achieved.

Table 6: Average turnaround times for Phase 3 large mergers, 2010/11 to 2014/15

Year	Average Turnaround Times
2010	76
2011	92
2012	95
2013	79
2014	103

The main reason for the extended review period in large mergers is complexity. A list of all large mergers and the turnaround times achieved is reflected in Annexure A. Table 6 and Annexure A suggest that any attempt to keep or meet the 2010 service standards in respect of large and complex

mergers (Phase 3) would be unrealistic and is not supported by the actual performance of the Division in this regard.

Although Table 2 also shows that Phase 1 service standards have not been met, these will not be changed in the current revisions. Over the years, the Division has found that a large proportion of Phase 1 cases are less complex and the turnaround times can be managed fairly well. This is in contrast to phase 3 (large) mergers where the time taken to complete the review is not always easy to manage.

3. Complete merger notification

To achieve the new service standards, the Commission requires parties to a merger to comply with the minimum filing requirements required by the Competition Act 89 of 1998, as amended (“the Act”), the Competition Commission Rules (in particular Part 6 Merger Procedures) and the Practitioner Update for Complete Filing, issued in 2010.

4. Effective date

Notwithstanding the publication date of these service standards to third parties, the effective date for the revised service standards is 1 April 2015.

5. Conclusion

The Mergers & Acquisitions Division, as a priority, seeks to discharge its duties in a timely manner. The Division will continue to strive for improved turnaround times in order to provide a sense of predictability and consistency to the merging parties.

ANNEXURE A

Turnaround times for Phase 3 large mergers, 2010/11 to 2014/15

Case Number	Primary Acquiring Firm	Primary Target Firm	Size	Phase	Turnaround time	Status	Date Finalised
2010Mar4998	Bidpaper Plus (Pty) Ltd	Sprint Packaging (Pty) Ltd	L	3	69	Approved	2010-07-06
2010May5129	Metropolitan Holdings Limited	Momentum Group Limited	L	3	67	Conditionally Approved	2010-08-30
2010Mar4991	Unilever Plc and Unilever N.V.	Sara Lee Corporation	L	3	79	Conditionally Approved	2010-09-28
2010May5102	Tsogo Sun Holdings (Pty) Ltd	Gold Reef Resorts Limited	L	3	94	Conditionally Approved	2010-09-28
2009Dec4818	The South African	Boland Beer Distributors	L	3	66	Conditionally	2010-12-07

	Breweries Limited	(Pty) Ltd				Approved	
2010Nov5445	Wal-Mart Stores, Inc	Massmart Holdings Limited	L	3	70	Approved	2011-02-11
2010Nov5522	Unilever plc	Alberto-Culver Company	L	3	68	Approved	2011-03-08
2010Nov5512	Growthpoint Properties Limited	Design Square Shopping Centre (Pty) Ltd, in respect of an 18% undivided share of the business enterprise known as Brooklyn Mall	L	3	74	Approved	2011-03-11
2010Dec5547	Retail Africa Consortium Holdings (Pty) Ltd	Rapfund Holdings (Pty) Ltd and Retail Africa Wingspan Investments (Pty) Ltd	L	3	62	Approved	2011-03-16

2010Oct5410	The JSE Limited	Momentum Managed Account Platform Holdings (Pty) Ltd and FirstRand Alternative Investment Management (Pty) Ltd	L	3	112	Conditionally Approved	2011-03-25
2011Feb5670	Media 24 Limited and Paarl Coldset (Pty) Ltd	The Natal Witness Printing and Publishing Company (Pty) Ltd	L	3	90	Conditionally Approved	2011-07-12
2011Apr0011	Shoprite Checkers (Pty) Ltd	Metcash Seven Eleven (Pty) Ltd and a portion of the Friendly Distribution Division of Metcash Trading Africa (Pty) Ltd	L	3	74	Conditional Approval	2011-07-26
2011Jun0102	Afgri Operations	Pride Milling Company	L	3	75	Approved	2011-10-07

	Limited	(Pty) Ltd					
2011Jul0139	Opiconsivia Trading 99 (Pty) Ltd c/o Masstores (Pty) Ltd t/a Makro	The Fruitspot Group	L	3	86	Conditionally Approved	2011-11-09
2011Apr0020	Mystic Blue Trading 62 (Pty) Ltd	The Rhino Group	L	3	145	Conditional Approval	2011-11-10
2011Aug0185	Actom (Pty) Ltd	Savcio Holdings (Pty) Ltd	L	3	81	Conditionally Approved	2011-11-29
2011Jul0151	Stefanutti Stocks (Pty) Ltd	Cycad Pipelines (Pty) Ltd	L	3	95	Approved	2011-11-29
2011Aug0215	Life Healthcare (Pty) Ltd	Joint Medical Holdings Limited	L	3	101	Prohibited	2012-01-18
2011Sep0281	Piruto B.V. and	Optimum Coal Holdings	L	3	104	Conditionally	2012-02-28

	Lexshell 165 Investments (Pty) Ltd	Limited and others				Approved	
2011Nov0365	Steinhoff International Holdings Limited	JD Group Limited	L	3	83	Approved	2012-03-22
2011Nov0367	Steinhoff International Holdings Limited	KAP International Holdings Limited	L	3	83	Approved	2012-03-22
2011Nov0369	Synergy Income Fund Limited	SA Corporate Real Estate Fund	L	3	82	Conditionally Approved	2012-03-28
2012Mar0141	Bucyrus Africa Underground (Pty) Ltd	The Mining Services Business conducted by Eqstra NH Equipment (Pty) Ltd	L	3	61	Approved	2012-06-20

2012Mar0100	Boxer Super Stores (Pty) Ltd	Metcash Trading Africa (Pty) Ltd	L	3	76	Approved		2012-06-26
2012Mar0148	Glencor International plc	Xstrata plc	L	3	142	Approved with conditions		2012-10-18
2012Aug0505	Humulani Marketing (Pty) Ltd	High Power Equipment Africa (Pty) Ltd	L	3	62	Approved with conditions		2012-11-27
2012Jun0326	Nestle SA	The Nutrition Business of Pfizer Incorporated	L	3	125	Approved with conditions		2012-12-04
2012Sep0585	Calulo Investments (Pty) Ltd	FFS Refiners (Pty) Ltd	L	3	88	Approved with conditions		2013-02-05
2012Sep0527	Business Venture Investments No. 1658 (Pty) Ltd	AFGRI Operations Limited and Senwes Limited	L	3	114	Approved with conditions		2013-02-21
2012Dec0725	Capitau Investment Management	New Foodcorp Holdings (Pty) Ltd	L	3	85	Approved		2013-04-16

	Limited						
2012Dec0757	Holdco	Lanseria International Airport (Pty) Ltd and Execujet Airline Investments (Pty) Ltd	L	3	91	Approved with conditions	2013-05-06
2013Feb0085	Industrial Development Corporation of South Africa Limited	Rio Tinto South Africa Limited	L	3	79	Approved with conditions	2013-06-25
2013May0218	Roeland Street Investments (Pty) Ltd	Harlequin Duck Properties 95 cc, Infoteam Investments 87 cc, D&M Padaanleg Transvaal cc, Superstrike Investments	L	3	66	Approved	2013-08-20

		77 (Pty) Ltd, Polfin cc and Friedcorp 192 cc in respect of 8 property letting enterprises					
2013Jun0289	Dis-Chem Pharmacies (Pty) Ltd	The CJ Wholesalers Business	L	3	71	Approved	2013-10-01
2013Jun0273	The Bidvest Group Limited	Mvelaserve Limited	L	3	84	Approved	2013-10-11
2013Jul0335	AFGRI Operations Limited	MGK Operating Company (Pty) Ltd	L	3	68	Approved	2013-10-22
2013Aug0399	PPC Limited	Safika Cement Holdings (Pty) Ltd	L	3	75	Approved	2013-12-03
2013Sep0446	Sibanye Gold Limited	Newshelf 1114 (Pty) Ltd	L	3	88	Approved with conditions	2014-01-21

2013Oct0481	AgriGroupe Holdings (Pty) Ltd	AFGRI Limited	L	3	85	Approved	2014-02-05
2013Dec0602	Ferro Industrial Products (Pty) Ltd	Arkema Resins (Pty) Ltd	L	3	93	Prohibited	2014-05-06
2013Nov0580	Bucket Full (Pty) Ltd	The Cartons and Labels business of Nampak Products Limited	L	3	127	Approved with conditions	2014-06-10
2014Jan0027	Media24 (Pty) Ltd	Paarl Media Group (Pty) Ltd, Paarl Media Holdings (Pty) Ltd and Paarl Coldset (Pty) Ltd	L	3	98	Approved	2014-06-24
2014May0179	Seaboard Overseas Trading & Shipping (Pty) Ltd	The Oilseed Business of The Atlas Trading and Shipping division of Grindrod Trading (Pty) Ltd, The Atlas Trading	L	3	69	Approved with conditions	2014-08-13

		division of Grindrod Trading (Asia) Pte Ltd					
2014May0195	The Real Beverage Company (Pty) Ltd	Dairybelle's Yoghurt/UHT Milk Businesses	L	3	108	Approved with conditions	2014-10-15
2014Jun0270	Mobile Telephone Networks (Pty) Ltd	Afrihost (Pty) Ltd	L	3	100	Approved	2014-10-28
2014Jul0368	Tsogo Sun Holdings Limited	Sunwest International (Pty) Ltd t/a Grand West Casino and Entertainment World and Worcester Casino (Pty) Ltd t/a Goldern Valley Casino	L	3	136	Prohibited	2015-01-27
2014Sep0532	Chlor-Alkali Holdings	Khumo Bathong Strategic Investments	L	3	98	Approved	2015-02-19

	Proprietary Limited	No 2 Proprietary Limited and Star Focus 115 Proprietary Limited					
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