



**competition commission**  
south africa

## Statement on the decisions of the Competition Commission

Date: 20 October 2016

### 1. Non Referrals – The Competition Commission (Commission) has taken a decision to non-refer (i.e. not to prosecute) the following cases:

#### a) *Metered Taxi Industry vs. Uber*

The Commission has taken a decision not to prosecute a complaint filed by the Metered Taxi Industry against Uber Technology (Pty) Ltd (Uber). In the complaint, the Metered Taxi Industry had raised the following concerns:

- Uber operates unfairly in that it secures partnerships with multinational companies and this gives it unparalleled access to the market;
- Uber misleads the public by its notion of job creation for drivers and does not comply with South African public rules and regulations;
- Uber floods the market with vehicles because it does not have to comply with licensing and other public transport regulations; and
- Uber charges prices that are below costs.

The Commission has conducted an investigation into these allegations and has taken a view that the alleged conduct does not contravene the Competition Act.

In terms of the Competition Act, the Metered Taxi Industry has 20 business days to refer the complaint directly to the Competition Tribunal if it disagrees with the Commission's decision.

- b) **Reyno De Beer vs. Absa Bank and Trafalgar Property Services (Pty) Ltd - *The Commission found that the conduct complained of does not contravene the Competition Act.***
- c) **SA Metal Group (Pty) Ltd vs. Sunset Bay Trading (Pty) Ltd T/A Gold Circle Metals - *The Commission found that the conduct complained of does not contravene the Competition Act.***
- d) **Nadia Nana vs. Home Owners Association of Ormonde View Estates - *The Commission found that the conduct complained of does not contravene the Competition Act.***
- e) **Ebrahim Petersen vs. University-UCT - *The Commission found that the conduct complained of does not contravene the Competition Act.***
- f) **George Venter vs. OLI- Pro - *The Commission found that the conduct complained of does not contravene the Competition Act.***

- g) Nniki Masilo vs. Johannesburg Social House Company - *The Commission found that the conduct complained of does not contravene the Competition Act.***

## **2. Key decisions on Mergers and Acquisitions**

### **Proposed merger between RMB Holdings Ltd (RMH) and Property Development (Pty) Ltd (Property)**

The Commission has recommended to the Competition Tribunal (Tribunal) an approval, without conditions, in the large merger whereby RMH intends to acquire Property.

RMH has a controlling interest in Atterbury Property Holdings (Pty) Ltd (Atterbury). Atterbury is a property investment and development firm with a portfolio of properties and developments spread across office, commercial, residential and retail segments.

Property is a property investment company with a focus on property development and regeneration in urban spaces. Property holds interests in Johannesburg and Durban. These properties are located in the Gauteng and KwaZulu-Natal Provinces respectively. It has a portfolio of retail, residential, industrial, office, hotel, parking, storage and artist studio properties.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market. Further, the proposed transaction does not raise any public interest concerns.

### **Proposed merger between BASF SE, Germany (BASF) and Rockwood Specialties Group GmbH (Rockwood), Germany and Chemetall U.S, Inc (Chemetall US)**

The Commission has recommended to the Tribunal an approval, without conditions, in the large merger whereby BASF intends to acquire Rockwood and Chemetall US.

BASF is a global chemicals company that is involved in the development, manufacturing and sale of chemicals ranging from solvents, plasticizers, glues and electronic chemicals.

Rockwood is a developer, manufacturer and marketer of specialty chemicals and advanced materials used for industrial and commercial purposes.

In South Africa, Chemetall SA develops and produces surface treatment products used to prepare the metal surface of a product prior to painting. These products are supplied to automotive components manufacturers, coils producers and cold forming customers.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market. Further, the proposed transaction does not raise any public interest concerns.

### **Proposed merger between The Spar Group Ltd (the SPAR Group) and Algoa Supermarket (Pty) Ltd, in respect of the businesses known as Algoa SPAR and Tops and Aspen SPAR and Tops (Target Businesses)**

The Commission has approved, without conditions, the intermediate merger whereby the SPAR Group intends to acquire Target Businesses.

The SPAR Group conducts a wholesaling and retailing operation throughout South Africa. The Target Businesses are retail supermarkets and retail liquor stores.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the market for the retail of liquor and grocery products, as there are is no geographic overlap in the activities of the merging entities. Also, the proposed transaction is unlikely to result in any foreclosure concerns.

The Commission further found that the proposed transaction is unlikely to raise any public interest concerns.

Ends

**For more information:**

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