



competition commission
south africa

Statement on the decisions of the Competition Commission

Date: 22 September 2016

1. Key decisions on Mergers and Acquisitions

1.1 Mergers approved with conditions

Proposed merger between China National Agrochemical Corporation (China National) and Syngenta AG (Syngenta)

The Competition Commission (Commission) has approved the intermediate merger whereby China National intends to acquire Syngenta with conditions.

China National focuses on the discovery, development, manufacture and sale of broad and diversified line of agrochemicals or crop protection products. In South Africa, China National operates through Adama South Africa (Pty) Ltd which is involved in the testing and registration of agrochemical products.

Syngenta is active in the agricultural sector, particularly in seed and crop protection products in over ninety countries. In South Africa, Syngenta has a formulation plant in Brits in the North West, where it manufactures agrochemicals.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any of the affected markets. This is based on the fact that there are other suppliers of agrochemicals and seed treatment products that customers can turn to, post-merger.

However, the Commission is concerned that the merger may result in the merging parties importing all its products at the expense of using the manufacturing plant in North West. This will have an adverse effect on the agrochemicals sector and is also likely to lead to job losses.

In order to address these concerns, the Commission has imposed a condition that requires the merging parties not to relocate the manufacturing plant from North West for a certain period.

Proposed merger between enX Group Ltd (enX Group) and Eqstra Newco (Pty) Ltd (Eqstra Newco)

The Commission has recommended to the Competition Tribunal (Tribunal) that the large merger whereby enX Group intends to acquire the fleet management and logistics businesses and the industrial equipment businesses from Eqstra Newco be approved with conditions.

The enX Group provides industrial energy equipment, consumables and support services to a wide range of economic sectors in South Africa and sub-Saharan Africa.

Eqstra Newco is a newly established company for the purposes of this transaction and it houses the fleet management and logistics businesses and industrial equipment businesses of Eqstra Holdings Limited (Eqstra).

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa. However, job losses are likely to arise as result of the proposed transaction. Although the merging parties have informed the Commission that potential retrenchments will be limited to skilled employees, the Commission is concerned that retrenchments may extend to unskilled employees who are unlikely to find alternative employment within a short space of time.

In order to address this concern, the Commission recommends the imposition of conditions that limit retrenchments to a certain number of skilled employees.

1.2 Mergers approved without conditions

Proposed merger between Uniprint a division of Times Media (Pty) Ltd (Uniprint) and Triumph Printing and Packaging (Pty) Ltd (Triumph)

The Commission has approved, without conditions, the intermediate merger whereby Uniprint intends to acquire Triumph.

Uniprint is a full service provider in the design, manufacture and distribution of a wide range of commercial print products and services to corporate customers and institutions that have consumer mass markets or branch networks throughout Africa. These products include cartons, self-adhesive and unsupported labels, and a range of transactional forms including security, gaming and election ballots.

Triumph is a service provider focused primarily on the designing, printing and manufacturing of carton-board packages.

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

Proposed merger between Natal Witness Printing and Publishing Company (Pty) Ltd (Natal Witness) and the Ilanga Publication, a Division of Mandla Matla Publishing (Mandla-Matla)

The Commission has approved, without conditions, the intermediate merger whereby Natal Witness acquired Mandla-Matla. The notification of this merger arose out of a settlement agreement of a prior implementation case, in which Natal Witness had acquired control over Mandla-Matla in 2000.

Natal Witness' primary activities comprised of the printing and publishing of various free and paid for community newspapers in KwaZulu-Natal. Ilanga was, and still is a paid for isiZulu language newspaper published twice a week.

The Commission found that the proposed transaction was unlikely to substantially prevent and lessen competition as the merged entity would continue to face competition from viable rivals. Furthermore, the proposed transaction did not raise any public interest concerns.

Proposed merger between Nissan Motor Co. Ltd (Nissan) and Mitsubishi Motors Corporation (MMC)

The Commission has recommended to the Tribunal that the large merger whereby Nissan intends to acquire MMC be approved without conditions.

The merging parties are active in the market for the supply of passenger vehicles and the market for the supply of light commercial vehicles.

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

Proposed merger between IMS Health Holdings Inc (IMS Health) and Quintiles Transnational Holdings Inc (Quintiles)

The Commission has approved, without conditions, the intermediate merger whereby IMS Health intends to acquire Quintiles. Post-merger, IMS will control Quintiles.

IMS is in the market for the collection and processing of data on pharmaceutical sales. Quintiles is a global contract research organisation, which provides drug development and lifecycle management services.

The Commission found that the proposed transaction is unlikely to result in any foreclosure concerns as there are alternative players in both upstream and downstream markets. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between Tradehold Ltd (Tradehold), Imbali Props 21 (Pty) Ltd (Imbali Props 21), Saddle Path Props 69 (Pty) Ltd (Saddle Path Props 69) and Collins Property Projects (Pty) Ltd (Collins Property Projects)

The Commission has recommended to the Tribunal that the large merger whereby Tradehold intends to acquire Imbali Props 21, Saddle Path Props 69 and Collins Property Projects be approved without conditions.

Tradehold comprises of investment companies that hold interests in property holding companies that own retail, commercial and industrial properties outside South Africa. In South Africa, Tradehold operates through Mettle Investments and the Titan Group Investment.

Mettle Investments provides financial services and administration solutions to international corporates as well as small and medium local enterprises and individuals.

The Titan Group Investment is a holding company with various subsidiaries holding investments in finance, farming, retail and property sectors. Imbali Props 21 owns Dimopoint (Pty) Ltd and sixteen industrial properties.

Collins Property Project is a property management company within the Collins Group. Imbali Props 21 and Saddle Path Props 69 will be used to house the Sale Properties. The Sale Properties consist of industrial, office and retail properties that are located throughout South Africa.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the provision of rentable space in office property and convenience centres. Furthermore, the proposed transaction does not raise any public interest concerns.

Proposed merger between Nando's Global Manufacturing (Pty) Ltd (Nando's GM) and The business of McCormick Condiments South Africa (Pty) Ltd (McCormick Condiments)

The Commission has approved, without conditions, the intermediate merger whereby Nando's GM intends to acquire McCormick Condiments.

The Nando's Group is engaged in the business of operating and licensing of other firms to operate a chain of flame-grilled peri-peri chicken outlets operating under the name Nando's. McCormick Condiments primarily produces and supplies various peri-peri sauces, marinades and bulk restaurant sauces to the food industry.

The Commission found that the proposed transaction is unlikely to change the structure of any market as there is no accretion in market shares. Therefore, the proposed transaction is unlikely to substantially prevent or lessen competition in any market. The proposed transaction does not raise any public interest concerns.

Proposed merger between TSA Properties CC (TSA) and The Target Properties owned by Reit Properties (Pty) Ltd (Reit)

The Commission has approved, without conditions, the intermediate merger whereby TSA intends to acquire the Target Properties from Reit.

TSA is involved in the building and letting out of rental office space in office parks to various businesses. The Target Properties comprise of eight immovable properties.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition, as there are alternative firms that will continue to constrain the merged entity. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between VKB Landbou (Pty) Ltd (VKB Landbou) and Lomina Vyf (Pty) Ltd trading as Farmpack (Pty) Ltd (Farmpack)

The Commission has approved, without conditions, the intermediate merger whereby VKB Landbou intends to acquire Farmpack.

VKB Landbou is an agricultural co-operative which is involved in the supply of various products and services to farmers, which include storing, handling and marketing of grain, milling, seed processing, chicken abattoirs, insurance, financing, mechanisation, and the supply of agricultural packaging materials.

Farmpack is involved in the distribution of corrugated cardboard boxes for the packaging of a variety of fresh produce, including bananas, papaya, avocados, litchis, citrus and vegetables; and for the packaging of other agricultural products, including macadamia nuts, eggs and frozen chicken.

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

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

- a) **Geoffrey Anderson Mikon Farming CC vs. South African Poultry Associations & Members** – *The Commission found that the conduct complained of does not contravene the Competition Act.*
- b) **Christo Mills vs. Sasolmed Medical Aid Scheme** – *The Commission found that the conduct complained of does not contravene the Competition Act.*
- c) **John Venter vs. New Era Packaging (Pty) Ltd** – *The Commission found that the conduct complained of does not contravene the Competition Act.*
- d) **Nthabiseng Moleko vs. various food certification bodies in South Africa** – *The Commission found that the conduct complained of does not contravene the Competition Act.*
- e) **Edmund Frank Stephan vs. ABSA bank** – *The Commission found that the conduct complained of does not contravene the Competition Act.*
- f) **Daniël Wessels vs. Hendre Schoeman** – *The Commission found that the conduct complained of does not contravene the Competition Act.*

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