



competition commission
south africa

Statement on the decisions of the Competition Commission

Date: 24 August 2016

1. Key decisions on Mergers and Acquisitions

1.1 Mergers approved with conditions

Proposed merger between Phumelela Gaming and Leisure Ltd (Phumelela) and Supabets SA Holdings (Pty) Ltd (Supabets)

The Competition Commission (Commission) has approved with conditions the intermediate merger whereby Phumelela intends to acquire 50% of the issued share capital in Supabets.

Phumelela is a vertically integrated horseracing administrator and betting operator. It also conducts fixed-odds betting on horseracing, sports and numbers (lotteries) through a number of its bookmaking outlets around South Africa as well as via a call-centre and the internet. Supabets offers fixed-odds betting on horseracing, sport as well as numbers (lotteries). In addition, Supabets also offers betting via a call-centre and on the internet. Further, the Commission found that Supabets holds a shareholding in a company that was issued with a tototalisator licence in the North West Province. The licence remains inactive and is being disposed of.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any of the relevant markets identified. In addition, the Commission also found that the proposed transaction will not have a negative impact on any of the public interest considerations.

In order to address the possible competition concerns that may arise in the North West, the Commission imposed a condition regarding the North West licence.

1.2 Mergers approved without conditions

Proposed merger between Inyanda Mining Holdings (Pty) Ltd (Main Street) and Inyanda Colliery business (Transferred Business) of Exxaro Coal (Pty) Ltd (Exxaro Coal)

The Commission has approved without conditions the intermediate merger whereby Main Street intends to acquire the Transferred Business from Exxaro Coal. Post-merger, Main Street will control the Transferred Business.

Main Street is jointly controlled by Lurco Group (Pty) Ltd (Lurco) and Burgh Group Holdings (RF) (Pty) Ltd (Burgh). Lurco sources coal from collieries and beneficiates it for sale into the export market. Burgh core interests lie in coal mining, marketing and mining equipment and it is involved in thermal coal mining and beneficiation. The Transferred Business includes a washing plant and a siding.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the defined markets for the supply of coal. In addition the proposed transaction does not raise any public interest concerns.

Proposed merger between Vetrivier Boeredienste CC (Vetrivier), BioAfrica Fertilisers (Pty) Ltd (BioAfrica), Bio-Minerale (Pty) Ltd (BMB) and Bio-Minerale Bemarking (Pty) Ltd (BM) (Target Firms)

The Commission has approved without conditions the intermediate merger whereby Vetrivier intends to acquire the Target Firms. Post-merger, Vetrivier will control the Target Firms.

Vetrivier is engaged in the manufacture and distribution of fertiliser and farming related products within a 200 km radius of Hoopstad, Free State. BioAfrica is also involved in the manufacture and sale of fertiliser within Mpumalanga. BMB is a property holding company which holds the manufacturing facilities of BioAfrica. BM is involved in the manufacture and marketing of biominerals. The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the national market for the manufacture and supply of granular NPK fertiliser. Furthermore, the proposed transaction does not raise any public interest concerns.

Proposed merger between Rebosis Property Fund Ltd (Rebosis), Billion Group (Pty) Ltd (Billion Group) in respect of Billion Property Developments (Pty) Ltd (Billion Property Developments), Bay West City (Pty) Ltd (Bay West City), Billion Asset Managers (Pty) Ltd (Billion Asset Managers) and Billion Property Services (Pty) Ltd (Billion Property Services) collectively referred to as the Target Firms

The Commission has recommended to the Tribunal that the large merger whereby Rebosis intends to acquire the entire issued share capital of the Target Firms from Billion Group be approved without conditions.

Rebosis has a property portfolio comprising of office, retail and industrial properties located throughout South Africa. Billion Asset Managers is an asset management service provider which manages Billion Group, Rebosis and Ascension's property portfolio. Billion Property Services manages Billion Group's commercial property portfolio. Billion Property Developments and Bay West City own the following shopping centres: Billion Property Developments owns Forest Hills Shopping Centre and Bay West City owns Baywest Mall. Forest Hills Shopping Centre and Baywest Mall will collectively be referred to as the "Target Properties." The Target Properties are retail properties that are located in the Gauteng and Eastern Cape Provinces.

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

Proposed merger between Warshy Investments (Pty) Ltd (Warshy) and New Rose 7 (Pty) Ltd (New Rose), KWV South Africa (Pty) Ltd (KWV SA) and KWV Intellectual Properties (Pty) Ltd (KWV IP)

The Commission has approved without conditions the intermediate merger whereby Warshy and New Rose intend to acquire KWV SA and KWV IP. Post-merger, Warshy and New Rose will control KWV SA and KWV IP (KWV).

Warshy, trading as TNB, is a South African liquor company which produces a range of liqueurs and spirits, which includes cream liqueurs, tequila, rum, vodka, whisky and gin infusions, as well as a range of premium beverages. KWV is a South African spirit and wine producer which is active in three segments that include wine, spirits and ready to drink alcoholic beverages.

The Commission found that the proposed transaction is unlikely to lead to a substantial lessening of competition. The Commission also found that the proposed transaction is unlikely to lead to job losses. In addition, the Commission found that the proposed transaction is unlikely to have a negative impact on other public interest grounds.

Proposed merger between Super Group Holdings (Pty) Ltd (Super Group Holdings) and ABF Legend Logistics (Pty) Ltd (ABF)

The Commission has approved without conditions the intermediate merger whereby Super Group Holdings intends to acquire ABF.

Super Group is a supply chain mobility company revolving around the optimisation of supply chain processes and vehicle fleets. Its business encompasses the planning and management of all activities across the supply chain, including the sourcing, procurement, transport and warehousing of goods and services. ABF provides coal hauling services that involve the collection of coal from Witbank (Emalahleni) and Middelburg. The coal, collected by ABF, is transported to different Eskom power stations and train stations that are situated within the Mpumalanga Province.

The Commission considered the activities of the merging parties and found that there is a horizontal overlap in the provision of coal hauling services in Mpumalanga. The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the provision of coal hauling services in Mpumalanga, as the combined post-merger market share remains low. Further, the vertical relationship between the merging parties is unlikely to result in any foreclosure concerns. In addition, the proposed merger does not raise any other public interest issues.

- 2. Non Referrals – The Commission has taken a decision to non-refer (i.e. not to prosecute) the following cases:**
- a) **Idatha (Pty) Ltd v South African Social Security Agency** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
 - b) **M F Swanepoel v South African Airways** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
 - c) **Ursula Spennato (RNS Multi-listing System) v Kelly Cremer Whitfields Estate Agents** - *The Commission found that the conduct complained of does not contravene the Competition Act.*

- d) **June Lewis v Club Mykonos Langebaan Home Owners Association** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- e) **Mr Mohamed Rafique Moosa v Master of the High Court Pretoria** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- f) **Martens Manufacturing (Pty) Ltd v CAD Metallising cc** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- g) **Compact Aerial Services (Pty) Ltd v SGS South Africa (Pty) Ltd** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- h) **FA Archer v Cell C (Pty) Ltd** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- i) **SEEFF Properties Potchefstroom v North West University: Potchefstroom Campus and Pukki-Verblyf** - *The Commission found that the conduct complained of does not contravene the Competition Act.*

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