Media Statement
For immediate release
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LATEST DECISIONS BY THE COMPETITION COMMISSION

Key decisions on Mergers and Acquisitions

1. PROHIBITION: Proposed merger between Corruseal Group (Pty) Ltd v Boxlee (Pty) Ltd (Boxlee) and Pride Pak Packaging (Pty) Ltd (Pride Pak)

The Commission prohibited two mergers whereby Corruseal intends to acquire Boxlee and Pride Pak.

Corruseal owns varying interests in several businesses, most of which operate in the industry for the manufacture and supply of packaging products including containerboard paper, corrugated board as well as corrugated packaging.

Boxlee and Pride Pak manufacture and supply corrugated boxes / packaging including single face board, regular slotted containers, dye cut self-erecting containers and trays.

Corruseal, Boxlee and Pride Pak are in a horizontal and vertical relationship. The Commission found that the proposed transactions are not likely to result in unilateral effects. With respect to the vertical relationship, the Commission found that the acquisition of Boxlee and Pride Pak by Corruseal is not likely to raise classic input and customer foreclosure concerns. The merger assessment primarily focused on coordinated effects likely to arise in the market for the manufacture and supply of corrugated board and in the market for the manufacture and supply of corrugated packaging (“the affected markets”).

The Commission particularly conducted this assessment in light of ongoing collusion investigations in the industry and in the affected markets. Also, likely coordination was considered in light of increased vertical integration in the industry and the symmetrical positions that such vertical integration creates thus making it easier to reach the terms of coordination.

The Commission found that the industry and the affected markets are characterised by high levels of concentration along the value chain, market transparency, multi-market contact, high and increasing barriers to entry, amongst other considerations. The Commission concluded that the proposed transactions are likely to strengthen coordination as post-merger it would be easy to reach terms of coordination and monitor deviations from coordinated conduct. Furthermore and in light of the concerns received during the investigation, the Commission is concerned about the foreclosure of market participants that are not vertically integrated and/or engaged in coordinated conduct in the industry and in the affected markets.

Therefore the Commission found that the proposed transactions are likely to substantially prevent or lessen competition as a result of strengthened coordination in the affected markets.
“There are significant concerns that the proposed mergers would make the market more conducive to coordination on prices by firms in the corrugated board and packaging markets. Further concentration in these markets would significantly lessen competition to the detriment of consumers”, says Deputy Commissioner, Hardin Ratshisusu

2. APPROVAL WITH CONDITIONS: Proposed merger between New GX Capital Holdings (Pty) Ltd (New GX) v Dartcom SA (Pty) Ltd (Dartcom)

The Commission has approved, with conditions, the intermediate merger whereby New GX intends to acquire additional shares in Dartcom. The merger will result in New GX exercising sole control over Dartcom.

New GX is a holding company with interests in companies involved in environmental solutions, waste collection and processing services for the City of Tshwane and other municipalities, as well as electrical and control instrumentation contracting. New GX also has interests in Dark Fibre Africa (Pty) Ltd (DFA) which builds, owns and operates a carrier neutral dark fibre infrastructure for the transmission of metro and long haul telecommunications traffic. DFA constructs and resells the discrete fibre cables to individual operators of telecommunications services.

Dartcom is a specialist distributor of telecommunications equipment which it supplies to network operators, OEM suppliers and network integrators. Products include radio frequency products/wireless connectivity products, fibre optic products, power system products and outside plant products.

The Commission found that the proposed merger will result in changes to the structure of the market and that a post-merger foreclosure strategy is likely. The Commission has, therefore, approved the merger with conditions, including that Dartcom continues to supply various specified products to its customers (i.e., only those that are DFA’s competitors) for three (3) years post-merger, on terms that are fair, reasonable and non-discriminatory in relation to pricing, terms of supply, manner and timing of delivery or any other supply conditions.

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