MEDIA RELEASE

For immediate release

21 June 2017

COMMISSION BLOCKS TWO PROPOSED ACQUISITIONS

The Commission has prohibited the proposed intermediate merger between Greif International BV (Greif) and Rheem South Africa (Pty) Ltd (Rheem).

Greif, a Dutch company, manufactures and supplies industrial packaging and services with a range of rigid packaging products such as steel, plastic and fibre drums, intermediate bulk containers and plastic water bottles. In South Africa, Greif manufactures and sells steel drums, steel pails, blow moulded plastic drums and knock-down–drums.

Rheem, a South African company, manufactures steel drums, cans and pails mainly used for packaging industrial liquids and hazardous chemicals.

The proposed merger was notified before in 2004. The Commission had prohibited the proposed merger, noting that Greif and Rheem were the only manufacturers of steel drums in KZN and Gauteng. The Commission found it was likely the merged entity would be in a position to unilaterally increase prices.

The Commission has again assessed the market for the manufacture and supply of large steel drums and found the transaction would effectively be a merger to monopoly, regardless of the geographic market considered. In addition, the Commission found that barriers to entry are high and that the proposed merger would likely result in merged entity being in a position to unilaterally increase prices.

In light of the above, the Commission found that the merger would result in a substantial prevention and lessening of competition in the manufacture and supply of large steel drums in KZN and Gauteng.

The Commission found that any public interest gains resulting from this merger would not outweigh the anti-competitive effects arising from this merger. The Commission found that no remedies could adequately address its concerns regarding the merger.

Meanwhile, the Commission has also prohibited the proposed intermediate merger whereby Nippon Yusen Kabushiki Kaisha (NYK), Mitsui O.S.K. Lines Ltd (MOL) and Kawasaki Kisen Kaisha Ltd (KL)

(Joint Venture Partners) intend to merge their container liner shipping businesses to form a joint venture in that market.

The primary acquiring firm is the joint venture for the container liner shipping of NYK, MOL and KL, a company to be incorporated in accordance with the laws of Japan. NYK operates its shipping business through an agent called Mitchell Cotts Maritime. Locally, MOL operates through its wholly owned subsidiaries called MOL South Africa (Pty) Ltd and MOL ACE South Africa (Pty) Ltd. Locally, KL operates through K Line Shipping South Africa (Pty) Ltd, a South African company.

The primary target firm is the container liner shipping businesses of NYK, MOL and KL. The container liner shipping businesses are separately conducted and controlled.

The Commission considered the impact of the proposed transaction on the market for the provision of container liner shipping services. The Commission further considered the impact of the proposed transaction on the adjacent market of the car carriers shipping market where the Joint Venture Partners compete.

The Commission has found that the structure of the container liner shipping market is conducive to coordination based on previous collusive conduct in the container liner market in other parts of the world. The merger increases the likelihood of coordination as it creates further structural linkages in the container liner market.

The Commission also found that the proposed transaction creates a platform for coordination in the car carrier market which has a history of collusion involving the merging parties. The parties have been prosecuted in some jurisdictions, while investigations are underway in others. It is the Commission’s view that the merging parties may require a formal mechanism for the further collusive conduct in the car carriers market. The joint venture provides such a mechanism.

The Commission is of the view that the proposed transaction is likely to increase the scope for coordination in the container liner shipping market, while creating a platform for coordination in the car carrier market. The Commission further found that there are no efficiencies that outweigh the anti-competitive effects of this transaction and that there are also no remedies sufficient to address these effects.

The Commission also found that there are no public interest issues that could outweigh the anti-competitive effects arising from the proposed transaction.

[ENDS]

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