



competition commission
south africa

Statement on the decisions of the Competition Commission

Date: 07 July 2016

1. Key decisions on Enforcement

Competition Commission launches an investigation against Transnet

The Competition Commission (Commission) has initiated an investigation against Transnet SOC Ltd (Transnet) for excessive pricing in contravention of section 8(a) of the Competition Act and exclusionary practices in contravention of section 8(c) of the Competition Act, in the provision of port services.

The Commission's investigation emanates from information indicating that the South African Port charges are much higher than the global average, as well as information indicating that Transnet is giving preferential treatment to certain customers to the exclusion of others.

The Commission will conduct a full investigation to assess whether or not Transnet has contravened the Competition Act as alleged.

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

- a) **Bertie Rautenbach v World Sports Betting (Pty) Ltd, LM Bookmakers CC, Playa Bets (Pty) Ltd and Grand Play (Pty) Ltd T/A grandplay.co.za and bet.co.za (Pty) Ltd** – *The Commission found that the conduct complained of does not contravene the Competition Act.*
- b) **Busisiwe Radebe v Vumatel** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- c) **Dinesh Haribhai v White Rock Properties (Pty) Ltd**- *The Commission found that the conduct complained of does not contravene the Competition Act.*
- d) **M.D Magagula v Nedbank Limited**- *The Commission found that the conduct complained of does not contravene the Competition Act.*

2. Key decisions on Mergers and Acquisitions

Proposed merger between Bunker Holding A/S (Bunker Holding) and Amoil (Pty) Ltd (Amoil)

The Commission has approved without conditions the intermediate merger whereby Bunker Holding intends to acquire Amoil.

Bunker Holding is involved in the purchase, sale and supply of fuel, oil, gas and related products, as well as risk management and associated services. In South Africa, Bunker Holding trades through South African Bunkering & Trading Limited (SABT). SABT sells marine fuel and lubricants to seafaring vessels, offshore rigs and rigs in transit throughout the world. Amoil is a marine fuel and lubricants trader and its customers are also ship or vessel operators worldwide.

The Commission found that the proposed merger is unlikely to substantially prevent or lessen competition in the supply of marine fuel and lubricants as the merged entity's market share would remain low post-merger to give rise to competition concerns. In addition, the Commission found that the proposed transaction is unlikely to raise public interest concerns.

Proposed merger between Hudaco Trading (Pty) Ltd (Hudaco Trading), the Business of UPS Direct (Pty) Ltd (UPS) and The Business of Matla Third Party Maintenance (Pty) Ltd (Matla)

The Commission has approved without conditions the intermediate merger whereby Hudaco Trading intends to acquire UPS and Matla.

The Hudaco Group specialises in the importation and distribution of industrial and security products in South Africa. UPS and Matla distribute secured power products such as stand-by batteries, inverters, UPS systems and generators.

The Commission found that the proposed merger is unlikely to substantially prevent or lessen competition in the supply of marine fuel and lubricants as the merged entity's market share would remain low post-merger to give rise to competition concerns. Furthermore, the Commission found that the proposed transaction does not raise any other public interest concerns.

Proposed merger between Geomer Investments (Pty) Ltd (Geomer Investments), The Ceejay Trust (Ceejay Trust), Gingko Trading (Pty) Ltd (Gingko Trading) and Gingko Investments No.2 (Pty) Ltd (Gingko Investments), African and Overseas Enterprises Limited (A&O)

The Commission has approved without conditions the intermediate merger whereby Geomer Investments, Ceejay Trust, Gingko Trading and Gingko Investments intend to acquire A&O.

Geomer is an investment holding company which holds investments in , among others, the mining, agricultural, telecommunications, property, water and sanitation services,

education services and medical technology sectors. The Ceejay Trust, Gingko Trading and Gingko Investments are investment holding companies.

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.

Proposed merger between Claremont Holdings (Pty) Ltd (Claremont) and the business of Kim Porter CC t/a Motorport Table View (Target Business)

The Commission has approved without conditions the intermediate merger whereby Claremont intends to acquire the Target Business.

Relevant to the proposed transaction is the Acquiring Group's activities in respect of the sale of new and pre-owned passenger and commercial motor vehicles in the Western Cape through its various motor dealerships. The Acquiring Group also provides after sale services such as parts, accessories, services and repair. The Target Business sells new and pre-owned passenger and commercial Volkswagen branded motor vehicles in Table View, in the Western Cape Province. The Target Business also provides after sale services such as parts, accessories, services and repair.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the market for the sale of used vehicles and the provision of after sale services as there are alternative dealerships that will continue to constrain the merged entity post-merger. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between K2016085985 (South Africa) (Pty) Ltd (K2016) and Hyprop Investment Ltd (Hyprop Investment) in respect of Somerset Value Mart

The Commission has approved without conditions the intermediate merger whereby K2016 intends to acquire Somerset Value Mart from Hyprop Investments.

K2016 is active in the sport and lifestyle shoe store chain with various stores located throughout South Africa. Somerset Value Mart is a retail centre located in Somerset West, in the Western Cape Province.

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.

Proposed merger between K2015251834 (South Africa) (Pty) Ltd (NewCo) and the Umhlanga College business (the Target School) of Umhlanga College NPC (UC)

The Commission has approved without conditions the intermediate merger whereby NewCo intends to acquire the Target School from UC.

NewCo is a special purpose vehicle company established for the purposes of the proposed transaction and does not provide any products or services. UC is a non-profit

organisation and operates the Target School. The target School is a co-educational, Christian ethos, independent school located in Umhlanga, in the KwaZulu-Natal Province. It caters to children from pre-primary, junior primary, senior primary and high school.

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

Proposed merger between Super Group Trading (Pty) Ltd (SGT) and Certain motor vehicle dealerships (the Target Businesses) in the Western Cape owned and operated by Sandown Motor Holdings (Pty) Ltd and Erven 6253 and 6254, Montague Gardens, held under deed of transfer T8105/2007 and T8106/2007 (the Property) currently owned by Koppieview Property (Pty) Ltd

The Commission has recommended to the Competition Tribunal that the large merger whereby SGT intends to acquire the Target Businesses and the Property be approved without conditions.

The Target Businesses' motor dealerships are located in the Western Cape and sell new and used vehicles. The Property is a purpose built car dealership, which comprises showrooms, workshops and offices and it is the site from which the Mercedes-Benz Century City and Chrysler Jeep Dodge Century City are operated.

The Commission found that the proposed merger is unlikely to substantially prevent or lessen competition in the market for the sale of new and used passenger and commercial vehicles in the Western Cape Province. In addition, the proposed transaction does not raise any public interest concerns

Proposed merger between Ziningi Properties (Pty) Ltd (Ziningi) and Edendale Mall (Pty) Ltd (Target Property)

The Commission has approved without conditions the intermediate merger whereby Ziningi intends to acquire the Target Property.

Ziningi is a property investment fund that has a portfolio of commercial and retail properties in major metropolitan areas in South Africa. The Target Property is a retail property located at Corner Moses Mabida and Mount Partridge Road, in the KwaZulu-Natal Province.

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

Proposed merger between Eiffage Infrastructures Societe Anonyme Simplifiee or its nominee (Eiffage), K2015100020 (South Africa) (Pty) Ltd (Holdco 1) and K2015080775 (South Africa) (Pty) Ltd (Holdco 2)

The Commission has approved without conditions the intermediate merger whereby Eiffage intends to acquire Holdco 1 and Holdco 2.

Eiffage SA is a leading European French-based company in four main business lines, namely construction, public works, energy and concessions and public-private partnerships. Holdco 1 and Holdco 2 are newly established entities and do not provide any products or services.

The Commission considered the activities of the merging parties and found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa as there is no overlap between the activities of the merging parties. In addition, the proposed transaction does not raise any other public interest concerns.

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

The Commission has approved without conditions the intermediate merger whereby Tradehold intends to acquire Imbali Props 21 and Saddle Path Props 69.

Tradehold is an investment holding company that controls Moorgath Inc (Moorgath) and Mettle Investments (Pty) Ltd (Mettle Investments). Moorgath manages a large portfolio of retail, commercial and industrial properties in the United Kingdom. Mettle offers financing and administration solutions for a wide range of clients who include international corporate firms, small and medium South African firms and individuals. Imbali Props 21 and Saddle Path Props 69 will be used to house the disposal of a portfolio of properties (Sale Properties). The Sale Properties is a portfolio of properties that consist of industrial, office and retail properties located throughout South Africa.

The Commission considered the activities of the merging parties and found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market, as there is no overlap between the activities of the merging parties. In addition, the Commission found that the proposed transaction does not raise any public interest concerns.

Proposed merger between Masimong Technologies (Pty) Ltd (Masimong Technologies) and Tellumat (Pty) Ltd (Tellumat)

The Commission has approved without conditions the intermediate merger whereby Masimong Technologies intends to acquire Tellumat.

Masimong Technologies is a shelf company that has been set up for the purpose of holding shares in Tellumat. The Acquiring Group has interests in firms which are active in the following sectors: media, agriculture, financial services, energy, mining, chemicals and industrials (manufacturing). Tellumat provides a wide range of IT services and designs, manufactures, distributes and installs its own and imported electronic

technology products and provides custom solutions for the aviation, telecommunications, defence and contract manufacturing markets.

The Commission considered the activities of the merging parties and found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market, as there is no overlap between the activities of the merging parties. In addition, the proposed transaction does not raise any public interest concerns.

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