



competition commission
south africa

Statement on the decisions of the Competition Commission

Date: 17 August 2016

1. Key decisions on Mergers and Acquisitions

Proposed merger between Rosewild Trade and Invest (Pty) Ltd (Rosewild) and Chlor-Alkali Holdings (Pty) Ltd (CAH)

The Competition Commission (Commission) has recommended to the Competition Tribunal (Tribunal) that the large merger whereby Rosewild intends to acquire CAH be approved without conditions.

Rosewild is a special purpose vehicle that does not conduct any activities. CAH is a holding company that does not conduct any activities but holds interest in companies that manufacture and distribute various chlor alkali derivatives and salt used in the industrial, manufacturing and water treatment sectors.

The Commission found that the proposed transaction is a restructuring which does not significantly alter the structure of any market. Furthermore, the proposed transaction does not raise any public interest concerns.

Proposed merger between The Bidvest Group Ltd (Bidvest) and Brandcorp Holdings (Pty) Ltd (Brandcorp)

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

Bidvest is involved in a diverse portfolio of business activities in South Africa. Brandcorp supplies and distributes consumer and industrial products including generators, water pumps, general, tools and hardware, table and kitchenware.

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

Proposed merger between Bonitas Medical Fund (Bonitas) and Liberty Medical Scheme (Liberty)

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

Bonitas and Liberty are active in the medical schemes industry and operates as open medical schemes.

The Commission found that the proposed merger is unlikely to substantially prevent or lessen competition as the merging firms will continue to face competition from other medical aid schemes. Further, there are no public interest concerns arising from the transaction.

Proposed merger between Zico Capital Two (Pty) Ltd (Zico Capital) and Goldrush Group (Pty) Ltd (Goldrush)

The Commission has recommended to the Tribunal that the large merger between Zico Capital and Goldrush be approved without conditions.

Zico Capital is a newly formed entity and does not provide any products or services. Goldrush is active in the provision of regulated gaming products such as electronic betting terminals.

The Commission 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 firms. Further, the transaction does not give rise to public interest concerns.

Proposed merger between Billion Property Group (Pty) Ltd (Billion Property Group) and Bay West City (Pty) Ltd (Bay West City)

The Commission has recommended to the Tribunal that the large merger whereby Billion Property Group intends to acquire Bay West City be approved without conditions.

Billion Property Group is a property development and investment group. It has a portfolio of properties consisting of retail, residential and office space. Bay West City owns Baywest Mall (Target Property). Bay West City is a property holding and development firm which currently owns a single property letting enterprise known as Baywest Mall. The Target Property is a rentable retail space (major regional shopping centre) that is located at 100 Bay West Boulevard, Baywest, Port Elizabeth, in the Eastern Cape Province.

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

Proposed merger between Subaru Southern Africa (Pty) Ltd (Subaru) and Listani (Pty) Ltd (Listani) in respect of the property letting enterprise situated at 68 Ayrshire Avenue, Longmeadow Business Estate, Edenvale (the Target Property)

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

Subaru owns and operates 13 dealerships and service centres throughout Southern Africa. The Target Property is a rentable retail space (specialist motor retail centre).

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition as there is overlap between the activities of the merging firms. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between Imbali Props 21 (Pty) Ltd (Imbali Props 21) and A Portfolio of properties (Target Properties) owned by Nampak Products Ltd (Nampak Products)

The Commission has approved without conditions the intermediate merger whereby Imbali Props 21 intends to acquire the Target Properties from Nampak Products.

Imbali Props 21 forms part of the Collins Group. The Collins Group is active in the business of investing in and developing immovable property in South Africa. The Target Properties are industrial properties where Nampak Products conducts its business operations.

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

Proposed merger between Onicawiz (Pty) Ltd (Onicawiz), Uvest Holdings 1 (Pty) Ltd (Uvest 1), Uvest Holdings 2 (Pty) Ltd (Uvest 2) and Sitari Country Estate (Pty) Ltd (Sitari) (the Target Firms)

The Commission has approved without conditions the intermediate merger whereby Onicawiz intends to acquire Uvest 1, Uvest 2 and Sitari.

The Acquiring Group is an investment holding company. Uvest 1 and Uvest 2 are active in the property investment and development market in South Africa. Sitari owns land in Somerset West, Cape Town, which is approved for development of an estate comprising 3150 residential luxury apartments, turn-key village homes and country homes together with a commercial area, school and retirement village.

The Commission 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. 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) The Competition Commission v Parmalat SA (Pty) Ltd

The Commission has taken a decision not to prosecute a complaint it had initiated on 10 December 2014 against Parmalat SA (Pty) Ltd (Parmalat). Parmalat is a milk processor that purchases raw milk from farmers for further processing into various products such as fresh milk, butter, yogurt, cheese and milk powder. The processed products are then distributed to local retailers for sale to consumers or exported to other countries.

The complaint initiated by the Commission relates to 'the bonus scheme' which was introduced by Parmalat in 2013. Parmalat used the bonus scheme to reward raw milk farmers for their continuous supply of raw milk to it in the Eastern and Western Cape Province. Milk farmers who supply raw milk to Parmalat for an uninterrupted period of 12 months qualified to receive a bonus payment. Essentially, the bonus scheme was an additional payment received by milk farmers for their continued loyalty to Parmalat. Parmalat applied the bonus scheme retrospectively, effective from January 2013 until it was discontinued in January 2015.

The Commission found that milk processors that compete with Parmalat were able to grow and expand in terms of the volume of raw milk procured from the farmers even during the operation of the bonus scheme. Thus, there is no sufficient evidence to demonstrate that competition between milk processors was substantially lessened or prevented as a result of Parmalat's bonus scheme.

- b) Dr. Charles William Moore, Jumba Jay (Pty) Ltd v Famous Brands Ltd-** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- c) X Moor Transport (Pty) Ltd v Traxys Africa (Pty) Ltd -** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- d) Precon Systems (Pty) Ltd v Traxys Africa (Pty) Ltd -** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- e) Obed Welcome v Emfuleni Local Municipality -** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- f) Anonymous v Wesbank, a Division of Firstrand Bank Ltd and Auto & General Insurance Company Ltd -** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- g) Luyanda Sazi Msane v Udumo Trading 26 (Pty) Ltd T/A Ultimate Dynamics, Mmk Construction and Management Services, Doron Civil Construction and Orange Cloud No 28 T/A Santana Civils -** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- h) Previsha Harripershad v Discovery Ltd -** *The Commission found that the conduct complained of does not contravene the Competition Act.*
- i) Judy Shifren v EDCON Group (Pty) Ltd -** *The Commission found that the conduct complained of does not contravene the Competition Act.*

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For more information:

Itumeleng Lesofe, Spokesperson

012 394 3287/ 073 805 7733/ ItumelengL@compcom.co.za