Statement on the decisions of the Competition Commission

Date: 17 November 2016

1. Key decisions on Mergers and Acquisitions

Proposed merger between Parentco and Edcon Ltd (Edcon)

The Competition Commission (Commission) has recommended to the Competition Tribunal (Tribunal) that the proposed transaction be approved, without conditions, whereby Parentco intends to acquire Edcon.

Parentco and its shareholding companies are special purpose vehicles, incorporated specifically for the purposes of the transaction and none of them has any prior business activities or operations in South Africa. The ultimate shareholders of Parentco will include the current creditors of the target firm, comprising of investment funds and banks. The Edcon Group is active in the retail of apparel through various divisions which sell men's, women's and children's wear, cosmetic products and cellular products, as well as credit and financial services products through its partnerships with Hollard and Absa Bank.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa. In addition, the Commission found that the proposed transaction is unlikely to raise any substantial public interest concerns relating to employment or have a negative effect on a particular region or industrial sector.

Proposed merger between Country Bird Holdings (Pty) Ltd (CBH) and Sovereign Food Investments Ltd (Sovereign Foods)

The Commission has approved, with conditions, the intermediate merger whereby CBH intends to acquire Sovereign Foods.

CBH produces chicken products from three production sites in Bloemfontein in the Free State and Klerksdorp and Mahikeng in the North West. Each site has a parent breeding operation, hatchery, feed mill, abattoir, and plant based factory shop. Sovereign Foods is a fully integrated poultry business in South Africa with business units comprising, inter alia, breeding, hatchery, broiler operation, feed mill, processing plant and a sales and marketing unit. In addition, Sovereign Foods supplies both fresh and frozen chicken portions.

Following its assessment of the proposed transaction, the Commission is of the view that the proposed merger is unlikely to substantially prevent or lessen competition in any of the markets in which the merged entity operates. However, the Commission found that the proposed transaction is likely to have a negative effect on public interest grounds, in particular, job losses and the promotion of the greater spread of ownership of the economy by Historically Disadvantaged Persons.

In order to remedy the abovementioned negative impacts on public interest, the merging parties agreed to the imposition of the following conditions: (1) no merger-specific job losses for an indefinite period; and (2) the introduction of a 4% B-BBEE shareholding in Sovereign Foods within 2 years of CBH acquiring substantial shareholding in Sovereign Foods.

Proposed merger between Stolt-Nielsen M.S. Ltd (Stolt) and JO Chemical Tankers A.S. (JO Tankers)

The Commission has approved, without conditions, the intermediate merger whereby Stolt intends to acquire JO Tankers.

Stolt is a provider of integrated transportation and storage solutions for speciality and bulk liquid chemicals and a wide range of other liquid products through its three largest operating units: Stolt Tankers, Stolhaven Terminals and Stolt Tank Containers. In addition, Stolt is also active in sea farming bitumen services and gas. JO Tankers is an integrated provider of deep sea transportation services for chemicals and other high value liquids such as petroleum products and edible oils.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the affected markets and will not result in any job losses. In addition, there are no public interest concerns that arise as a result of the proposed transaction.

Proposed merger between Famous Brands Management Company (Pty) Ltd (FBMC) and It's a Matter of Taste (Pty) Ltd t/a By Word of Mouth (BWOM)

The Commission has approved, without conditions, the intermediate merger whereby FBMC intends to acquire BWOM.

FBMC is the franchisor in respect of restaurants which include some of the best known restaurant chains in South Africa such as Steers, Wimpy, Debonairs Pizza, FishAways, House of Coffees, Tashas, Mugg & Bean, O'Hagans, Keg, Giramundo, Vovo Telo, Milky Lane, Wakaberry, Mymos and Bread Basket. In addition, FBMC is an integrated franchisor in that it also supplies certain consumable products used by its franchisees in the course of their operations. BWOM is a catering company that engages in activities such as providing food services based on contractual arrangements with customers in a location specified by the customer for a specific event. This includes providing food for the canteens of corporate firms. BWOM also provides adjunctive services such as waiters, as well as décor and catering equipment to customers during these events.

The Commission considered the activities of the merging parties and found that they do not overlap. Therefore, the Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market. The proposed transaction does not raise any public interest concerns.

Proposed merger between Retailability (Pty) Ltd (Retailability) and The Business Conducted by Edcon Ltd (Edcon)

The Commission has approved, without conditions, the intermediate merger whereby Retailability intends to acquire Edcon.

Retailability is a retailer of clothing apparel. Retailability owns clothing apparel retail stores trading under the names Beaver Canoe and Style. The Beaver Canoe branded retail stores sell clothing apparel for men and boys only and there are currently 92 of these stores across South Africa, while the Style branded retail stores sell clothing apparel for men, women and children. The Legit South Africa Business falls within the Edcon Specialities Division. The Legit stores have a fashion store format which focuses on the retail of clothing, footwear and accessories aimed at young, budget constrained women. In addition to women's apparel, the Legit stores are also suppliers of colour cosmetics and cellular products.

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

Proposed merger between Insimbi Refractory and Alloy Supplies Limited (Insimbi) and Amalgamated Metals Group Holdings (Pty) Ltd (AMR Holdings)

The Commission has approved, without conditions, the intermediate merger whereby Insimbi intends to acquire AMR Holdings.

Insimbi, through its various subsidiaries, provides the steel, aluminium, cement and foundry industries with resource-based commodities like ferrous and non-ferrous alloys, as well as refractory materials. In addition, Insimbi supplies, inter alia, ferro alloy powders, rutile sand, ferro chrome, magnesium, calcium silicide and manganese flakes. Insimbi is also involved in the beneficiation and supply of a diverse range of alloys and ancillary raw materials in the form of ingots, nuggets and pallets. Insimbi further specialises in the blow moulding of plastic containers for the chemical, agricultural and food industries. The AMR Group is a licensed second hand scrap and metal trading group. The companies within the AMR Group purchase and sell non-ferrous (copper, aluminium, brass, bronze, zinc, stainless steel, tin and lead) and ferrous (steel) grades of material. The AMR Group also exports scrap metal materials from South Africa.

The Commission found that the proposed transaction is unlikely to significantly lessen or prevent competition in any identified market and would not have a negative effect on any public interest grounds. In particular, the merging parties do not envisage any retrenchments as a result of the merger.

Proposed merger between Unitrans Supply Chain Solutions (Pty) Ltd (USCS) and Xinergistix (Pty) Ltd (Xinergistix)

The Commission has recommended to the Tribunal that the proposed transaction be approved, without conditions, whereby USCS intends to acquire Xinergistix.

The USCS Group is an integrated logistics, warehouse and distribution management business that renders its services to the petrochemical, mining, construction, agriculture and fast-moving consumer goods sectors. In addition, USCS provides bulk transportation services, specifically edible liquid bulk, non-edible liquid bulk and dry bulk transportation services. Xinergistix is a transport and logistics company that provides local and cross-border transportation services operating from its depots in Cape Town, Johannesburg, Bloemfontein, Port Elizabeth and Durban. In addition, Xinergistix focuses on general cargo and refrigerated transport services. The refrigerated goods transported by Xinergistix include ice cream, fresh milk, meat, and other perishable products supplied to the fast-moving consumer goods sector.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the national market for the provision of general cargo transportation services and the national market for the provision of temperature controlled distribution services, as there are alternative players in both markets. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between Steinhoff International Holdings N.V (Steinhoff) and Tekkie Town (Pty) Ltd (Tekkie Town)

The Commission has recommended to the Tribunal that the proposed transaction whereby Steinhoff intends to acquire Tekkie Town be approved without conditions.

Steinhoff, through its operations under Pepkor, has activities involving clothing and footwear. Tekkie Town is mainly a sport and lifestyle shoe chain which has approximately 300 stores located throughout South Africa.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition as there are other effective competitors in the market. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between Liberty Two Degrees (Liberty Two Degrees), Liberty Group Ltd in respect of undivided shares in certain properties (the Target Business) controlled by Liberty Group Ltd (LGL)

The Commission has recommended to the Tribunal that the proposed transaction be approved, without conditions, whereby Liberty Two Degrees intends to acquire the Target Business from LGL.

Liberty Two Degrees is a newly formed real estate investment trust. The Target Business currently forms part of LGL's property portfolio and comprises of retail and office properties that are located in the KwaZulu-Natal, Free State and Gauteng Province.

The Commission considered the activities of the merging parties and found that there is a horizontal overlap in so far as LGL controls the Target Business. Post-merger, the Target Business will still be ultimately controlled by LGL, thus, there is no change in the structure of any market. In addition, there will be no accretion in market shares in any market. The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market nor does it raise any public interest concerns.

Proposed merger between K2016439654 (South Africa) (Pty) Ltd (K2016), Plastic Wonderland (Pty) Ltd (Plastic Wonderland), Trevor and Paul Home Solutions (Pty) Ltd (Trevor and Paul), Paul and Stuart Home Solutions (Pty) Ltd (Paul and Stuart) and Bafokeng Plastics (Pty) Ltd (Bafokeng)

The Commission has approved, without conditions, the intermediate merger whereby K2016 (the Acquiring Group) intends to acquire Plastic Wonderland, Trevor and Paul, Paul and Stuart and Bafokeng (Plasticland companies).

K2016 is a special purpose vehicle that provides corporate advisory services and it also conducts investment activities for its own account by way of co-investment into private companies. The Plasticland companies operate as retailers of plastic products that can broadly be categorised as follows: household products (such as kitchenware, bottles, jars, bathroom products, soft packaging and vacuum bags and home DIY products); office accessories and stationery; educational toys, arts and crafts, playground equipment, children's furniture, novelties etc.; garden accessories and furniture; storage products (such as buckets and basins, cans and drums, crates and bins etc.); and party accessories and products.

The Commission considered the activities of the merging parties and found that there is no overlap, as the Acquiring Group is not involved in the retail of household, office, garden, storage and recreational plastic products. Therefore, the Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa. In addition, the proposed merger does not raise any public interest issues.

Proposed merger between the JB Private Equity Investors Partnership No.1 (JB Investors) and Sentula Mining Ltd (Sentula Mining)

The Commission has approved, without conditions, the intermediate merger whereby JB Investors intends acquiring Sentula Mining.

JB Investors does not provide any products or services. Sentula provides contracted opencast mining operations, exploration drilling, overburden drilling and blasting, mobile crane hire and rehabilitation services to mining industry.

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

Proposed merger between Geomer Investments (Pty) Ltd (Geomer Investments) and Esor Ltd (Esor)

The Commission has approved, without conditions, the intermediate merger whereby Geomer Investments intends to acquire Esor.

Geomer Investments is an investment holding company which holds investments in a diversified portfolio in middle market companies operating principally in South Africa. In addition, Geomer Investment invests in the equities market as well as the mining, agricultural, asset management, telecommunications, property, water and sanitation services, education services and medical technology sectors. Esor is a multifaceted construction and development group focused on niche sectors of the construction market and infrastructure development projects in Southern Africa.

The Commission found that the proposed transaction is unlikely to change the structure of any market as there is no accretion in market shares. In addition, the Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in any market. The proposed transaction does not raise any public interest concerns.

Proposed merger between EOH Intelligent Infrastructure (Pty) Ltd (EOH) and Scan RF Projects (Pty) Ltd (Scan RF)

The Commission has approved, without conditions, the intermediate merger whereby EOH intends to acquire Scan RF.

The EOH Group is an investment and management company. Through its subsidiaries, EOH provides services and products in three major areas, namely, consulting, technology (software and infrastructure) and outsourcing. Scan RF's main areas of business include the building of turnkey industrial or mining wireless communications (WI-FI) solutions including mainly wireless mesh networks and ancillary products, microwave broadband wireless networks, and digital two-way radios supporting end-to-end solutions.

The Commission found that the proposed transaction is unlikely to substantially lessen or prevent competition in the broader market for the provision of WI-FI solutions as there are alternative players in the market. In addition, the proposed transaction does not raise any public interest concerns.

Proposed merger between Rockwood Fund I (Rockwood) and Kwikspace Modular Buildings Holdings (Pty) Ltd (Kwikspace)

The Commission has recommended to the Tribunal that the proposed transaction be approved, without conditions, whereby Rockwood intends to acquire Kwikspace.

Rockwood is a private equity fund manager. It focuses on taking substantial equity positions in medium to larger sized companies that have experienced management teams. Kwikspace manufactures a variety of modular prefabricated buildings for rental or purchase for a wide range of sectors including education, health care, site buildings, workforce housing, sanitation and events. These prefabricated buildings are specifically designed for rapid assembly and are manufactured in modules which allow for future expansion.

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.

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

a) Pam Herr vs. Old Mutual Wealth - *The Commission found that the conduct complained of does not contravene the Competition Act.*

b) Audrey Bierman vs. Romans Pizza - *The Commission found that the conduct complained of does not contravene the Competition Act.*

c) **Christo Mihalitsianos vs. Santam Insurance, Hollard Insurance& Mutual Federal insurance -** *The Commission found that the conduct complained of does not contravene the Competition Act.*

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For more information:

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