



competition commission
south africa

Statement on the decisions of the Competition Commission

Date: 28 July 2016

1. Key decisions on Mergers and Acquisitions

1.1 Mergers prohibited

Competition Commission prohibits tiles and sanitaryware merger

The Competition Commission (Commission) has prohibited the proposed acquisition of Ceramic Industries (Pty) Ltd and Ezee Tile Adhesive Manufacturers (Pty) Ltd by Italtile Ltd. [See Annexure A for details.](#)

1.2 Mergers approved with conditions

Proposed merger between Ferro South Africa (Pty) Ltd (Ferro Coating), and Revertex South Africa (Pty) Ltd (Revertex)

The Commission has recommended to the Competition Tribunal (Tribunal) that the large merger whereby Ferro Coating intends to acquire Revertex be approved with conditions.

Ferro Coating manufactures and distributes resins and additives for the architectural, industrial, construction, adhesives and graphics markets. In addition, Ferro Coating has limited access to water-based dispersions and emulsions technology from the Arkema Group, a global supplier of coating materials.

Revertex is an investment holding company which holds interests of Synthomer, its ultimate parent company, in its South African based subsidiary, Synthomer SA, as well as its South African based joint venture, Arkem. Synthomer SA manufactures and sells certain emulsions and polymers. Arkem is a technology provider and supplier of speciality chemicals which are toll manufactured on its behalf by Synthomer SA. In particular, Arkem is involved in research and development of chemical technology, specialising in the fields of water treatment, paints, textiles and detergents.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition in the market for the production and supply of water-based dispersions and emulsions as the merged entity will not have high market shares and there are alternative and significant players to constrain the merged entity post-merger. In addition there are no public interest concerns arising as a result of the proposed transaction.

Currently, Arkem is a joint venture controlled by Revertex and Akzo Nobel. Post-merger, Revertex's interest in Arkem will be held by Ferro Coating. The Commission found that the broader Ferro Group, through its division Ferro Vedoc Powder Coating, competes directly with Akzo Nobel in the market for the manufacture and supply of powder coatings. Therefore, post-merger Akzo Nobel and Ferro who are direct competitors in the powder coatings market, will sit in the Arkem joint venture and may use it as an information exchange platform which may lead to coordinated outcomes in the powder coatings market.

In order to address this concern, the Commission has recommended that the Tribunal approve this merger subject to a condition requiring the divestment of either Ferro's or Akzo Nobel's shareholding in Arkem, leaving only a single shareholder to wholly control Arkem.

1.3 Mergers approved without conditions

Proposed merger between Accelerate Property Fund Ltd (Accelerate) and Laritza Investments No 183 (Pty) Ltd (Laritza) in relation to Eden Meander Lifestyle Centre (Target Centre)

The Commission has recommended to the Tribunal that the large merger whereby Accelerate intends to acquire the Target Centre from Laritza be approved without conditions.

Accelerate is a property owning firm with a diverse property portfolio comprising of retail, commercial and industrial space. The Target Centre is a lifestyle centre located at Knysna road and N2 Highway in George, in the Western 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 retail space. In addition, the proposed transaction does not raise substantial public interest concerns.

Proposed merger between Zungu Investments Company (Pty) Ltd (Zico) and Elgin Engineering (Pty) Ltd (Elgin)

The Commission has approved without conditions the intermediate merger whereby Zico intends to acquire Elgin.

Zico is an investment holding company with diversified interests in various sectors in South Africa such as media, packing, financial services and security sectors. Elgin is an engineering company that manufactures light to heavy-duty equipment primarily for the sugar and petrochemical industries.

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 Commission also found that the proposed transaction does not raise any public interest concerns.

Proposed merger between Sanofi and The Consumer Healthcare Business (CHC Business) of Boehringer Ingelheim (BI)

The Commission has approved without conditions the intermediate merger whereby Sanofi intends to acquire CHC Business from BI.

Sanofi is active in the research, development, manufacture and sale of health care products in three principal business areas, namely pharmaceuticals, human vaccines and animal health. The CHC Business is owned and operated by BI, which is active in the development, production, distribution and marketing of pharmaceutical products such as biopharmaceuticals and animal health products.

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

Proposed merger between Melrose Arch Investment Holdings (Pty) Ltd (Melrose Arch Investment Holdings), AMDEC Property Investments (Pty) Ltd (Amdec Property) and Armandi Properties (Pty) Ltd (Armandi Properties) in respect of Virgin Active Steenberg (the Target Property)

The Commission has approved without conditions the intermediate merger whereby Melrose Arch Investment Holdings intends to acquire the Target Property from Amdec Property.

Melrose Arch Investment Holdings owns a portfolio of immovable properties and property letting enterprises. It actively operates within the property development sphere in South Africa, focusing on residential estates, office and mixed-use developments. The Target Property comprises of a commercial rental enterprise operating as a gym.

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.

Proposed merger between The Spar Group Ltd (the Spar Group) and Andramaria Supermarket CC (Andramaria Supermarket), in respect of the business known as Rant en Dal SUPERSPAR and Tops at SPAR (the Target Business)

The Commission has approved without conditions the intermediate merger whereby the Spar Group intends to acquire the Target Business from Andramaria Supermarket.

The Spar Group conducts a wholesaling operation throughout South Africa. The Spar Group also operates retail stores and owns supermarkets and liquor stores throughout the country. Target Business is a retail supermarket and retail liquor store that sells, to the general public, a wide range of fresh and processed foodstuffs, toiletries, household products and other similar supermarket-style items.

The Commission found that the proposed transaction is unlikely to substantially prevent or lessen competition, as there is no geographic overlap between the activities of the merging entities. Further, the proposed transaction is unlikely to raise any public interest concerns.

Proposed merger between Newshelf 1363 (Pty) Ltd (Newshelf) and Afrihost (Pty) Ltd (Afrihost)

The Commission has approved without conditions the intermediate merger whereby Newshelf intends to acquire Afrihost.

Newshelf is a newly incorporated firm that does not conduct any activities. Afrihost is an internet service provider whose activities include data hosting services and ancillary services, retail asymmetrical digital subscriber line internet access services and mobile internet access services.

The shareholders of Newshelf are largely the existing management of Afrihost. The proposed transaction is therefore a management buyout (MBO) which re-establishes the *status quo* of Afrihost's ownership before MTN acquired control in 2014. As a MBO, the merger does not change the structure of any markets and as such the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.

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

- a) **David Christopher Pells v Trans Hex Ltd, West Coast Resource (Pty) Ltd and Namagroen (Pty) Ltd** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- b) **Dr. Marijke Schopman v Glocell (Pty) Ltd** - *The Commission found that the conduct complained of does not contravene the Competition Act.*
- c) **Ettienne Zwart v Citrus Research International** - *The Commission found that the conduct complained of does not contravene the Competition Act.*

Ends

For more information:

Itumeleng Lesofe, Spokesperson

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