

Weekly Media Statement
For immediate release
09 February 2018

LATEST DECISIONS BY THE COMPETITION COMMISSION

1. Key decisions on mergers and acquisitions

1.1 Msobo (Pty) Ltd (Msobo) Ltd v Northern Coal (Pty) Ltd (NC)

The Commission has approved the proposed transaction, without conditions, whereby Msobo intends to acquire NC.

Msobo is active in the business of extracting bituminous thermal coal, under licence, from the Witbank and Ermelo coal fields. Msobo's mining areas are situated around the town of Breyten, Mpumalanga Province. Msobo supplies coal to both domestic and export markets.

NC is active in the business of extracting bituminous thermal coal. NC supplies high quality coal through a single trader who then exports it. NC's coal processing plant is located in Carolina, Mpumalanga Province.

The Commission found that the proposed transaction is unlikely to raise employment concerns. In addition, the proposed transaction does not raise public interest concerns.

1.2 NEC Europe Ltd (NECEU) v NEC Europe Ltd (XON)

The Commission has approved the proposed transaction, without conditions, whereby NECEU intends to acquire XON.

NECEU is a company incorporated in England that is controlled by the NEC Corporation (NEC). NEC is active in the information communications technology market globally, providing various products and services to its customers worldwide.

XON is an ICT systems integrator that designs, builds, manages, and operates ICT solutions for its customers. XON is further a value added reseller that integrates systems and products from various vendors in the ICT sector. It operates in South Africa, Namibia and Kenya.

The Commission found that the proposed transaction is unlikely to substantially lessen or prevent competition in the relevant markets. In addition, the proposed transaction is unlikely to have a negative effect on employment and does not raise public interest concerns.

1.3 Community Property Company (Pty) Ltd (CPC) v Flanagan and Gerard Investments (Pty) Ltd (F&G)

The Commission has recommended to the Competition Tribunal (Tribunal) that the proposed transaction be approved, without conditions, whereby CPC intends to acquire a retail letting business known as Eyethu Orange Farm (Target property) from F&G).

CPC is a property holding and investment company and its property portfolio consists of shopping centres which are situated in the Gauteng Province.

The Target Property is a 26 818m² retail property located in Orange Farm, Johannesburg (Gauteng Province). Based on its gross lettable area and the type of the building, the Target Property is classified as a small regional shopping centre and comprises of retail letting and storage space.

The Commission found that the proposed transaction is unlikely to substantially lessen or prevent competition in the market for the provision of the rentable retail space. In addition, the proposed transaction is unlikely to have a negative effect on employment and does not raise public interest concerns.

1.4 Mitsui (Mitsui)& Co. Ltd v ETC Group (Mauritius) Ltd (ETC Holdings)

The Commission has recommended to the Tribunal that the proposed transaction be approved, without conditions, whereby Mitsui intends to acquire ETC Holdings.

Mitsui is a public Japanese company, and is listed on the Tokyo Stock Exchange. It has business activities in the sale, distribution, purchase, marketing and supply of products such as iron and steel; construction and mining equipment; agricultural inputs and energy resources.

ETC Group is a diversified agricultural trading and processing business. ETC produces and supplies agricultural products such as: soybeans, sesame seeds, oil seeds other than soy and sesame, cashews, coffee, pulses, wheat, maize, nitrogen fertilizer, potassium fertilizer, sulphur fertilizer and other fertilizers.

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

1.5 Reserve Trading 11 (Pty) Ltd (Reserve) v KFC (Pty) Ltd (KFC)

The Commission has approved the proposed transaction, without conditions, whereby Reserve intends to acquire twelve KFC franchise outlets.

Reserve trades as a KFC franchisee for operating quick service restaurants and selling KFC products under franchise agreements. KFC is a major multinational franchisor operating within the fast food and takeout industry.

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

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

2.1 Andrew McGregor v Robert Hamburger Owner Aniston Hotel

The Commission decided that the matter should be non-referred based on '*de-minimis*' rule.

2.2 Dhevatha Chetty v Faeem Rajan

The Commission is of the view that the conduct complained of does not contravene the Competition Act.

2.3 Sir Air v NCRS Patsy Andrews

The Commission is of the view that the conduct complained of does not contravene the Competition Act.

2.4 Kopanang Shaft 9 (Pty) Ltd v Village Main Reef Gold Inv 06 (Pty) Ltd, Village Main Reef, Heaven Sent SA, Sunshine investments, Audex

The Commission is of the view that the conduct complained of does not contravene the Competition Act.

2.5 Tayanja (Pty) Ltd v Waste Group Projects

The Commission is of the view that the conduct complained of does not contravene the Competition Act.

2.6 Anonymous v Zane Mheyamwa CFO Metro Bus Case No: 2017Nov0034

The Commission is of the view that the conduct complained of does not contravene the Competition Act.

2.7 Previsha Harrisershad v Discovery Health and Alpha Pharm

The Commission is of the view that the conduct complained of does not contravene the Competition Act.

[ENDS]

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