



**Weekly Media Statement**  
**For immediate release**  
**14 March 2018**

## **LATEST DECISIONS BY THE COMPETITION COMMISSION**

### **1. Key decisions on mergers and acquisitions**

#### **1.1 Joyson KSS Holdings No.2 S.a.r.l and Joyson KSS Automotive Safety S.A v Takata Corporation**

The Commission has approved with conditions, the proposed merger whereby Joyson KSS Holdings No.2 S.a.r.l and Joyson KSS Automotive Safety S.A intend to acquire Takata Corporation (Takata).

Takata has one subsidiary in South Africa, namely Takata South Africa (Pty) Ltd (Takata SA). Takata is an automotive safety systems supplier to major automakers. Its products include seatbelts, airbag systems, steering wheels, child seats and electronic devices. Takata SA manufactures/assembles and supplies steering wheels, airbags and seatbelts in South Africa.

The acquiring firms are owned by Ningbo Joyson Electronic Corporation (Ningbo Joyson) which makes and sells automotive safety systems such as airbags, seatbelts and steering wheels. KSS Joyson sells seatbelts (made in Romania) to Lear Corporation, which sells assembled seats for VW vehicles in SA.

The Commission was concerned that the proposed transaction occurs in a market wherein there has been a pre-existing cartel investigation and has considered whether the transaction is likely to enhance coordination within this background. The Commission has found that the industry is already prone to cartel conduct and that the merger could further consolidate players and make coordination easier to sustain, thereby substantially preventing or lessening competition in the market.

Further, the Commission has been investigating Takata for collusive conduct and has referred four separate cases against Takata to the Tribunal for prosecution. These cases involve price fixing, market division and collusive tendering. In other jurisdictions, Takata admitted to cartel conduct, however, the cartel investigation proceedings against Takata are still on-going in South Africa.

Takata indicated that it is undergoing bankruptcy proceedings in various jurisdictions due to the recall of its products due to safety reasons, in particular, airbags. The Commission was concerned that over and above the enhancement of collusion in the market, the proposed transaction may be used to shield Takata from any possible administrative penalty that may be levied on Takata should it be found guilty of contravening the Competition Act pursuant to the cartel investigation. Upon implementation of the proposed transaction, Ningbo Joyson will acquire control of Takata's business that is alleged to be involved in the cartel conduct. As such, Takata will be absorbed by Ningbo Joyson. The Commission took the view

that this would result in uncertainty as to which firm would be liable for the payment of any administrative penalty flowing from the cartel investigation in the event that an administrative penalty be imposed.

In light of the above concerns regarding the enhancement of collusion in the market as well as uncertainty regarding which entity will be liable for a potential administrative penalty, the Commission has approved the proposed transaction subject to conditions that will ensure the preservation of any claims it may have against Takata in the event that an administrative penalty is levied against Takata.

## **1.2 SEMA Holdings Ltd v CWT-Aquarius Shipping International (Pty) Ltd**

The Commission has approved the proposed merger, with conditions, whereby SEMA Holdings Limited (SEMA) intends to acquire CWT-Aquarius Shipping International (Pty) Ltd (CWT).

SEMA is a South African holding company and does not have any business activities. The acquiring group's only local activities are conducted through M B SEC which provides long distance and cross border road transport services in respect of equipment, chemicals, consumables and minerals in competition with CWT.

CWT provides logistics services including shipping, warehousing, customs clearance and freight forwarding. It provides line haul transportation services to transport minerals and commodities to and from SA such as chemicals, chrome, copper, cotton, fertiliser, food, ground nuts, tea, timber, tobacco and zinc.

The Commission found that the proposed transaction is likely to facilitate anti-competitive information sharing between the merging parties due to the Acquiring Group's representation on the CWT board of directors. Thus the Acquiring Group is likely to have access to CWT's competitively sensitive information post-merger. In order to address this concern, the Commission has imposed conditions which will ensure that the Acquiring Group does not nominate directors to the CWT board who have operational involvement in line haul transportation services. In addition, the proposed transaction does not raise any public interest concerns.

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

### **2.1 General Insulation Suppliers V Rockfibre SA**

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

### **2.2 Jethro Hulana t/a Tiro Projects v Kimberley Golf Club, Teemane (Pty) Ltd, Flamingo Casino and Sun International**

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

[ENDS]

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