competition commission south africa

Weekly Media Statement

For Immediate Release

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LATEST DECISIONS BY THE COMPETITION COMMISSION

1. Key decisions on mergers and acquisitions

1.1 Rebel Packaging (Pty) Ltd (Rebel) v West Coast Paper Traders (Pty) Ltd (West Coast)

The Commission has recommended to the Competition Tribunal (Tribunal) that the proposed merger, whereby Rebel intends to acquire West Coast, be approved, without conditions.

Rebel is a wholly owned subsidiary of Mpact Limited (Mpact). Mpact is a paper and plastics packaging manufacturer with operations in South Africa, Mozambique, Namibia and Botswana. The business involves the production of paper and plastic packaging products, and recycling (of both paper and plastic).

Mpact's paper manufacturing operations produce a range of intermediate paper products such as cartonboard and containerboard. In addition, it holds distribution rights to sell Baywhite, a white top kraftliner produced by Mondi Limited. Mpact manufactures paper from a combination of recyclable paper and virgin material.

West Coast is a trader or converting merchant in relation to various paper products. It purchases rolls of paper and either customises the paper to the requirements of its customers or simply acts as a re-seller and sells to customers in South Africa. West Coast focuses on the supply of paper materials to smaller and medium sized businesses which would be less likely to purchase directly from paper-mills owing to their smaller purchase volumes.

West Coast has converting and distribution hubs across South Africa with equipment. The equipment allows West Coast to purchase rolls of paper, cut these (using slitter and sheeter) and then to re-wind the paper on smaller rolls as per customisation and requirements of customers.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.2 Robor (Pty) Ltd (Robor) and Masteel Service Centres South Africa (Pty) Ltd (Macsteel) v Masteel in respect of its tubes and pipes business (MT&P) (being acquired by Robor) and Robor (being acquired by Macsteel)

The Commission has recommended to the Tribunal that the proposed merger, whereby Robor intends to acquire Macsteel, in respect of its tubes and pipes business (MT&P). As a consideration for the acquisition of MT&P, Robor will issue controlling shares to Macsteel. Thus, on completion of the proposed transaction Robor will be jointly controlled by Robor and Macsteel.

Robor through its tubes and pipes business (RT&P) is a manufacturer and a distributor of welded steel tube & pipes, cold formed steel profiles and associated value added products. RT&P product range comprises of hot and cold rolled tube and sections; cold formed steel sections; conveyance or piping systems; coil, sheet and plate; conveyor, tube and associated products; access scaffolding and associated products; structural steel products; and value added products. RT&P's main operations consist of two production facilities in the East Rand of Johannesburg, with sales representatives in various territories, including Durban, Port Elizabeth and Cape Town.

MT&P is owned and controlled by Macsteel. MT&P produces tube & pipe products, which it distributes across Southern Africa. MT&P's tubes & pipes production facility is located in Lilianton, Boksburg, Gauteng, from which distribution takes place throughout South Africa. This business unit forms and welds steel strips to produce standard welded steel T&P. MT&P also offers value add services for the tube & pipe products. MT&P's production of standard tubes & pipes is limited to small bore products. This includes structural steel tubes and straight line steel pipes. Structural steel tubes are typically used as a construction element and form of support in built structures, mining support systems, fencing, hi-tensile scaffolding and furniture. Conveyance pipes are used for the transmission of liquids, oils and gasses. These conveyance pipes find application in household plumbing and heating solutions, irrigation solutions and conveyance solutions in the mining industry.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets in light of the merging parties' failing firm defence. However, the Commission found that the proposed merger will have a negative effect on employment. The Commission found that approximately 311 employees will be negatively affected by the proposed transaction. The Commission imposed a condition that the merging parties do not retrench any additional employees, as a result of the proposed merger. Further, the Commission imposed a condition that ensures that the 311 affected employees receive a right of first refusal in the event that vacancies become available within the merging parties' businesses.

1.3 Independent Institute of Education (Pty) Ltd (IIE) v Monash South Africa (MSA), and Laureate South Africa (Pty) Ltd (Laureate SA)

The Commission has approved, with conditions, the proposed merger, whereby IIE intends to acquire MSA and Laureate SA.

IIE is controlled by ADvTech Limited (ADvTech). ADvTech is a diversified education, training and placement group. ADvTech has three main business divisions, namely, Schools, Tertiary education and Resourcing. ADvTECH's Tertiary education division encompasses the IIE and its tertiary education brands which include the following: Varsity College, Rosebank College, Capsicum Culinary Studio and Oxbridge College.

MSA is controlled by LEI AMEA Investments BV (LEI AMEA) and Monash University (Monash). Laureate SA is also controlled by LEI AMEA. Both MSA and Laureate SA do not control any firms. MSA is a private higher education institution and an entity through which Monash University, an Australian public university, has established a presence in South Africa. MSA offers a number of undergraduate, graduate, executive and pathway programmes.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. However, the Commission found that the proposed merger will have a negative effect on employment. The Commission found that approximately 55 employees are likely to be retrenched as a result of the proposed transaction. The Commission imposed a condition that, out of 55 employees who may be retrenched, the merging parties should limit this to 50 skilled and semi-skilled employees. The Commission found that the remaining 5 employees were unskilled and therefore imposed a condition that they should not be retrenched as a result of the proposed transaction. The Commission further imposed a condition that if the merging parties proceed to retrench the 50 employees, they must offer them first preference should employment opportunities arise in the ADvTech Group, in future.

1.4 ADM France société par actions simplifée (ADM France) v Neovia société par actions simplifée (Neovia)

The Commission has approved, the proposed merger, without conditions, whereby ADM France intends to acquire Neovia.

ADM France is a global producer of food and beverage ingredients as well as other products made from oilseeds, corn, wheat and other agricultural commodities. ADM France's products include natural flavours and colours, health and nutritional products, vegetable oil, corn sweeteners, flour, animal feed and biofuels. Globally, ADM France's operations are organised, managed and classified into four business segments. These segments include origination, carbohydrate solutions, oilseeds and nutrition. In South Africa, ADM only supplies lysine, an amino acid additive for animal feed, which is aimed at optimising the growth of animals such a pigs and chicken for the production of meat.

In South Africa, Neovia South Africa supplies animal feed supplements and additives through a distributor (namely Allied Nutrition) in South Africa. Neovia supplies animal feed supplements and additives in South Africa that include palatants in the form of flavours and sweeteners, minerals and bioactives.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.5 In2Food Group (Pty) Ltd (In2Food) v the assets of the Bronkhorstspruit facility of RCL Foods Consumer (Pty) Ltd (RCL Foods)

The Commission has approved, the proposed merger, without conditions, whereby In2Food intends to acquire the assets of the Bronkhorstspruit facility of RCL Foods.

In2Food produces products in a variety of categories including ready-to-eat meals, mayonnaise, dips and pastes, seafood, ready to use fruit and veg, juices and drinks, snacks, dried fruit and nut products and bakery items at facilities across the Western Cape and Gauteng.

RCL Foods sells Rainbow branded chicken products, ready-to-eat and convenience food products, grocery products, pies and beverages. It has four production facilities located around Gauteng and in the Western Cape. The Bronkhorstspruit facility produces prepared meals, chilled cakes and dessert product lines.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.6 Actis International Limited (Actis International) v Abraaj Investment Management Limited (in provisional liquidation) (Abraaj Investment) in respect of the management rights held by AIML over certain private equity funds

The Commission has recommended to the Tribunal that the proposed merger, whereby Actis International intends to acquire Abraaj Investment in respect of certain private equity funds, Abraaj Africa Fund III (AAF III); Abraaj Africa Fund II (B) LP; Abraaj Africa Fund III (M) LP; Abraaj North Africa Fund II LP; Abraaj North Africa Fund II (B) LP; Abraaj North Africa Fund II (S) LP; Abraaj Private Equity Fund IV LP (APEF IV); Abraaj Private Equity Fund IV (S) LP; Aureos South East Asia Fund II LP; Aureos South East Asia Fund II-A LP; Aureos Africa Fund LLC; Aureos Africa Fund (A) LLC; Aureos East Africa Fund LLC; Kantara LP; Africa Health Fund LLC; and Aureos South Asia (Private Equity Funds), be approved, without conditions.

The Actis Group is a global private equity investor and has interests in the consumer, healthcare, financial services, industrial, energy, education and real estate sectors. It has investments in emerging markets in Africa including South Africa, China, India, Latin America and South East Asia. The Actis Group generally invests in buy-outs of companies or non-core divisions of large corporations and in private companies, seeking to achieve rapid growth organically or through acquisitions, privatisations or restructurings. In South Africa, the Actis Group has investments in companies active in the credit assistance services, retailing of household furniture, beds and other ancillary household, wholesaling, distribution and/or retailing of fresh produce, groceries, beverages and other food-related and ancillary products to end consumers, industrial and logistics property assets, renewable energy, tertiary education, payment solutions, tracker services and ethnic fabric. None of the Actis Group’s investments in South Africa are in the private health care sector.

In South Africa, Abraaj Investment manages AAF III and APEF IV. None of the other Private Equity Funds control any firm which has operations in South Africa. AAF III controls Joint Medical Holdings (Pty) Ltd (JMH). JMH is a progressive healthcare organisation which operates a number of hospitals and health care centres as well as a nursing learning centres.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.7 TC Group L.L.C. (TC Group) v Apollo Aviation Holdings Limited (Apollo)

The Commission has recommended to the Tribunal that the proposed merger, whereby TC Group intends to acquire Apollo, be approved, without conditions.

TC Group is a company incorporated in accordance with the company laws of Delaware and is ultimately controlled by Carlyle Group I. L.P., an affiliate of the Carlyle Group L.P. (Carlyle). Carlyle is a publicly traded and listed on the NASDAQ Stock Exchange. Carlyle is not controlled by any firm. Carlyle Group is an American-based global asset management firm, specializing in private equity investments. Carlyle Group invests in a wide range of industries. Of relevance for the purposes of this merger filing, is Carlyle Group's activities in the aircraft sector includes the financing and leasing of private and corporate jets and engines and the provision of advanced repairs and maintenance for jet engine parts. TC Group and all of the firms it controls and all of the firms controlling TC Group shall be referred to as the "Carlyle Group".

Apollo has business operations in more than 50 countries worldwide including South Africa and focuses on the acquiring, leasing, managing and selling of large commercial Boeing and Airbus aircraft (i.e. aircraft with a capacity of 100 or more passengers). Apollo' activities are divided into the following four categories: (i) leasing of large commercial aircraft; (ii) acquisition and sale of large commercial aircraft; (iii) leasing of aircraft engines; and (iv) the provision of aircraft-related asset management services. Apollo's South Africa activities are limited to the leasing of three large commercial aircraft to local airlines.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets due to the absence of any horizontal or vertical overlaps. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.8 Polanofield (Pty) Ltd (Polanofield) v Distribution and Warehousing Network Limited (DAWN)

The Commission has approved, the proposed merger, without conditions, whereby Polanofield intends to acquire DAWN.

Polanofield is a shelf company that was recently purchased by its controllers specifically for the purposes of the proposed transaction and as such Polanofield does not have any business activities. The controllers of Polanofield have controlling interests in a property development company, a holiday resort and a firm that manufactures fire containment systems. Polanofield does not control any firms directly or indirectly in South Africa.

DAWN is listed in the Construction and Materials – Building Materials and Fixtures sector of the JSE Limited and its head office is based in Germiston, Gauteng. DAWN manufactures and wholesales quality branded hardware, sanitary-ware, plumbing, kitchen, engineering and civil products to buying groups, independent plumbing merchants and hardware stores, which it distributes through its branch network which is located throughout South Africa, as well as branches in other African countries. DAWN also supplies pipes and fittings used in water infrastructure by municipalities, mines, industries and farms.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any market in South Africa because the proposed transaction does not result in a horizontal or vertical overlap. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.9 Spectramed Medical Scheme (Spectramed) v Resolution Health Medical Scheme (Resolution Health)

The Commission has approved, the proposed merger, without conditions, whereby Spectramed intends to acquire Resolution Health.

Spectramed is a medical scheme registered in terms of the Medical Schemes Act, 1998 Act no. 131 of 1998 (Medical Schemes Act). Spectramed is owned by its members and it is directed by a Board of Trustees, which is appointed by its members. Spectramed is administered by Agility Health (Pty) Ltd (Agility Health). Spectramed is an open medical aid scheme available to the general public.

Resolution Health is a medical aid scheme registered in terms of the Medical Schemes Act. Resolution Health is owned by its members and it is directed by a Board of Trustees which is appointed by the members. Resolution Health is administered by Agility Health. Resolution Health is also an open medical aid scheme that provides its services to the general public.

The Commission found that there are no competition concerns likely to arise from the proposed transaction, due to the relatively small market share of both Spectramed and Resolution Health.

The Commission accordingly found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.10 Auto and Truck Tyres (Pty) Ltd (Auto and Truck Tyres) v O'Green MetaForge (Pty) Ltd (Resolution Health)

The Commission has approved, the proposed merger, without conditions, whereby Auto and Truck Tyres intends to acquire O’Green Metaforge.

Auto and Truck Tyres imports and supplies new and retreaded replacement tyres to the retail and wholesale markets. Auto and Truck Tyres' services include new tyre supply; rim supply, repair and fitting; car and truck wheel alignment; fleet management; and breakdown services.

O'Green Metaforge is also an importer of rims and tyres and supplies new tyres to retail customers throughout South Africa. O'Green Metaforge has warehouses and distribution facilities based in Johannesburg, Cape Town, Bloemfontein, Durban, Nelspruit and Port Elizabeth and services the South African market through these facilities.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.11 Sithega SPV (Pty) Ltd (Black Star) v Prescient Empowerment Trust (Pty) Ltd (PET) and Prescient Holdings (Pty) Ltd (PFH)

The Commission has approved, the proposed merger, without conditions, whereby Black Star intends to acquire PET and PFH.

Black Star is a special purpose vehicle and currently does not conduct any activities.

PET is a special purpose vehicle whose only activity is to provide a vehicle through which third parties can acquire shares in PFH. PFH is an asset management firm. Its offerings includes investment management, fund services and administration, stockbroking, wealth management and retail and institutional retirement and insurance products.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets due to the absence of any horizontal or vertical overlaps. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.12 Merchant West Holdings (Pty) Ltd (Merchant West) v Abela (Pty) Ltd (Abela)

The Commission has approved, the proposed merger, without conditions, whereby Merchant West intends to acquire Abela.

Merchant West, operates as an independent investment holding company that offers business finance and advisory services. The company specialises in corporate, supplier, and public sector asset finance services; asset rental finance; working capital solutions, such as single invoice discounting, full disclosure discounting, and trade finance; and treasury and risk management solutions to the private and public sector. Its services include specialised finance through implementation of financial products and services, including trade securitisation and debt syndication programs, commercial property finance, BEE transactions, corporate finance, debt securitization, large-debt asset finance, and balance sheet restructuring. Merchant West offers its products and services in Cape Town, Johannesburg, Mpumalanga, Pretoria and Durban.

Abela provides vehicle rental and fleet management services to the corporate market in Johannesburg.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.13 Professional Provident Society Insurance Company Limited (PPS) v Professional Provident Society Short-Term Insurance Company Limited (PST)

The Commission has approved, the proposed merger, without conditions, whereby PPS intends to acquire PST.

PPS is a long-term insurer registered in South Africa in terms of the Long-Term Insurance Act, No. 52 of 1998 and is licenced to provide the following types of long-term insurance products: life insurance, health insurance and disability insurance.

PST is a short-term insurer and is licenced to provide the following types of short-term insurance products: motor insurance, liability insurance, property insurance and miscellaneous insurance.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in the relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

[ENDS]

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