



competition commission
south africa

Weekly Media Statement

For Immediate Release

17 April 2020

LATEST DECISIONS BY THE COMPETITION COMMISSION

**1.1 HCI Invest 15 Holdco (Pty) Ltd (HCI Invest)/ Ithuba Holdings (RF) (Pty) Ltd (Ithuba)
and Zamani Marketing and Management Consultants (Pty) Ltd (Zamani Marketing)**

The Commission has recommended that the Competition Tribunal (Tribunal) approve the proposed transaction whereby HCI Invest intends to acquire Ithuba and Zamani Marketing with conditions.

HCI Invest is an investment holding company with investments in a wide variety of industry sectors including gaming and entertainment. HCI Invest's interests in gaming and entertainment relate to casino gaming, bingo, limited pay-out machines and sports betting.

Ithuba is the operator of the South African national lottery since 2014, pursuant to a licence awarded to it by the National Lotteries Commission. Zamani Marketing is a consulting firm which provides management and marketing services to other firms. Ithuba is a client of Zamani Marketing for which it provides management services.

The Commission found that the merging parties may be considered potential competitors in relation to future national lottery licences. In addition, the Commission found that the merging parties have concluded an agreement which, in the Commission's view, is likely to chill competition post-merger.

Further, the Commission found that there is a likelihood that the nature of control that HCI will exercise over the target firms following the implementation of the merger may change.

In addition, in light of *inter alia* employment-related concerns raised by employees of the target firms and the potential retrenchments in the absence of any unequivocal undertaking by HCI Invest to the contrary, the Commission considers it necessary that the Tribunal approves the proposed transaction by imposing a condition which limits the merging parties from effecting any merger-related retrenchments post-merger.

In order to address the aforesaid concerns, the Commission recommended that that the proposed transaction be approved subject to the following conditions:

1. Should the nature of control that HCI Invest will have over the target firms as a result of the proposed transaction, change post-implementation of the proposed transaction, the merging parties must notify as a merger the subsequent change of control to the Commission in the prescribed manner.
2. The clause from one of the agreements between the merging parties, which may potentially chill competition post-merger, be removed within a stipulated timeframe.
3. The merging parties shall not retrench any employees in South Africa as a result of the proposed transaction.

1.2 Flameup Investments (Pty) Ltd (Flameup Investments)/ Festigen Investments (Pty) Ltd (Festigen Investments) in respect of the letting enterprise known as River Crescent Centre (Pty) Ltd (River Crescent Centre)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Flameup Investments intends to acquire River Crescent Centre from Festigen Investments without conditions.

Flameup Investments is a property holding company. The ONE Group is a property holding, investment and management group with a portfolio comprising of retail, residential and office properties across South Africa. Relevant to the proposed transaction, within the ONE Group property portfolio, is Witbank Medical Centre situated in Mpumulanga.

Festigen Investments is a property development and letting company in Mpumulanga. In terms of the proposed transaction, its River Crescent Centre is relevant. River Crescent Centre is a retail community shopping centre situated in Witbank, Mpumulanga.

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

1.3 OMPE GP V (Pty) Ltd (OMPE) acting in its capacity as the ultimate general partner of OMPE Fund V Partnership (OMPE Fund V)/ The Crick Group (Pty) Ltd (Crick)

The Commission has recommended that the Tribunal approve the proposed transaction whereby OMPE intends to acquire Crick without conditions.

OMPE Fund V is a private equity investment fund, acting through its ultimate general partner, OMPE. OMPE, a private company incorporated in South Africa, is ultimately owned by Old Mutual Ltd (Old Mutual). Old Mutual and all firms which it directly and indirectly controls will be referred to as the Old Mutual Group.

Of relevance to the proposed transaction is the controlling interest held by the Old Mutual Group in Footgear (Pty) Ltd, a retailer of various brands of clothing, footwear and accessories, through the Footgear, Edgars Active and High Key retail chain stores (OM retail chains). Footgear is mainly a retailer of footwear, and to a limited extent also sells accessories and clothing. It stocks a number of brands including Levis, CAT, Hi-Tec, Nike and New Balance amongst others. Footgear operates via brick and mortar stores and it also has an online presence.

Edgars Active operates a chain of stores nationally. Both Edgars Active and High Key are focused on the retailing of men's, women's and children's active wear, footwear and accessories, as well as cellular products. The retail brands supplied by these stores include the Edgars' in-house Pro-Action and Jabari brands, Adidas, New Balance, Nike, Puma and Reebok amongst others.

Crick is active in the wholesale distribution and retail sale of branded apparel, footwear and accessories under the Kappa, Superga, Alpha and Crep Protect brands. Crick is the licensed distributor of these brands in South Africa. Crick does not supply any of its brands to the OM retail chains currently.

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

1.4 Harmony Gold Mining Company Ltd (Harmony Gold)/ the remaining gold mining South African operations of AngloGold Ashanti Limited (Anglo Gold) and Others

The Commission has recommended that the Tribunal approve the proposed transaction whereby Harmony Gold intends to acquire Vaal River Mining Business (VR Mining Business) and West Wits Mining Business (WW Mining Business) from Anglo Gold without conditions.

Harmony Gold is a gold mining and exploration company which conducts its activities in South Africa and in Papua New Guinea. Harmony Gold produces gold as its primary product as well as silver and uranium as a by-product of its gold production process. Harmony Gold has nine underground mines, one open pit mine and several surface operations in South Africa. In addition, Harmony Gold is also active in the supply of primary or natural uranium.

The WW Package comprises of the (i) WW Mining Business; (ii) Covalent; (iii) Anglo Security and (iv) Masakhisane. The WW Mining Business is situated in Gauteng and includes three mines along with its gold plant and associated infrastructure. Covalent maintains the relevant water management infrastructure related to some of the mines forming part of the WW Mining Business. Anglo Security holds Anglo Gold's permits in relation to armoured vehicles, riot control equipment and less-lethal weaponry. Lastly, Masakhisane, extends interest-free loan funding for small and medium sized businesses as well as established micro enterprises in and around the vicinity in which the WW Mining Business operates.

The VR Package includes First Uranium (Pty) Ltd (FUSA), a subsidiary of Anglo Gold, which runs water treatment plants, the Kopanang Gold Plant (used for internal processing of gold ore and not for third party processing); primary healthcare centres located on the Kopanang Gold Plant

as well as related buildings, infrastructure and equipment (including armoured vehicles and firearms), as well as Chemwes (Pty) Ltd (Chemwes), which is a 100% subsidiary of Mine Waste Solutions (Pty) Ltd (Mine Waste Solution), which in turn is the 100% subsidiary of FUSA..

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

1.5 Izimbiwa Associated Companies (Pty) Ltd (IAC)/ Bitterswet Trade and Invest 55 (Pty) Ltd (Bittersweet)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Phembani Group (Pty) Ltd (Phembani), through IAC intends to acquire Bittersweet without conditions.

Phembani is a South African based industrial holding company with a focus on investing and operating in the oil, gas, minerals, mineral resources, metals and infrastructure related industries.

Bittersweet controls a number of firms. The only operating entities controlled by Bittersweet are Umcebo Mining Proprietary Limited (Umcebo Mining) and Hlagisa Mining Proprietary Limited (Hlagisa). Umcebo Mining operates in the production and supply of thermal coal through Wonderfontein Colliery, an open-cast mine. Hlagisa owns the Widlfontein mine which is no longer producing coal. Hlagisa has an arrangement with Mafube coal mine whereby Hlagisa contract mines coal from Mafube.

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

1.6 Rhône Capital L.L.C (Rhône Capital)/ MaxamCorp Holding, S.L. (Maxam)

The Commission has unconditionally approved the proposed merger whereby Rhône Capital intends to acquire Maxam.

Rhône Capital's portfolio companies are active in the manufacture and supply of water filtration systems, swimming pool products (i.e. pool cleaners, pool heaters, pumps), bakery ingredients and products, and consumables for the foundry industry.

Maxam (through Maxam Dantex) operates as a manufacturer of commercial mining explosives and provides civil explosives, initiation systems and blasting services in South Africa. These products, services and solutions are used and supplied to a number of civil applications industries, such as the mining, quarries and construction industries.

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

1.7 Sana Partners Fund 1 (Sana)/ Brenn-O-Kem (Brenn-O-Kem)

The Commission has unconditionally approved the proposed merger whereby Sana intends to acquire Brenn-O-Kem.

Sana is a private equity fund focused on investing strategic expertise alongside strong entrepreneurial management teams in mid-size companies in South Africa. Sana acquires interests in a portfolio of high-growth mid-size private companies in order to generate investment returns.

Brenn-O-Kem is active in the manufacture and supply of natural value-added products made from the by-products of the South African wine industry. Brenn-O-Kem specialises in transforming wine waste, such as grape skins and seeds (i.e. pomace) and wine lees into value added natural products used in the wine, brandy, food and pharmaceutical industries. The product range which is manufactured in two manufacturing plants situated in Wolseley and Worcester in the Western Cape includes grape wine spirits (i.e. distilled wine alcohol); raw materials for the production of

tartaric acid; liquid tartaric acid; cream of tartar; dried pomace; grape seed oil; and natural extracts.

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

[ENDS]

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