



competition commission
south africa

Weekly Media Statement

For Immediate Release

21 May 2020

LATEST DECISIONS BY THE COMPETITION COMMISSION

1.1 Daimler Truck AG (Daimler Truck)/ Ukuvela Holdings (Pty) Ltd (Ukuvela Holdings)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Daimler Truck intends to acquire Ukuvela Holdings without conditions.

The Daimler Group develops, manufactures and distributes products and services in the automotive sector on a global scale - primarily passenger cars, trucks, vans and buses. The primary acquiring firm, Daimler Truck, is responsible for the group's global business in relation to the manufacturing and distribution of trucks and buses.

Ukuvela Holdings, through Atlantis, operates a metal foundry which manufactures and sells cast iron engine blocks for heavy-duty trucks. Atlantis formed part of the Daimler group until 2015 when it was acquired by Neue Halberg-Guss GmbH. The result of this merger is that once the proposed transaction is completed, the Daimler group will own Atlantis again. Ukuvela Properties owns the site from which Atlantis conducts its operations, which is situated in Cape Town.

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.

1.2 Nouryon Chemicals International B.V (Nouryon)/ CP Kelco Oy (CP Kelco)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Nouryon intends to acquire CP Kelco without conditions.

Nouryon is a global manufacturer and supplier of specialty chemicals, headquartered in Amsterdam, the Netherlands. Nouryon produces a wide range of chemicals such as salt, chlorine and caustic products, chemical intermediates, surfactants and processing chemicals, and cellulose derivatives including carboxymethyl cellulose (CMC).

CP Kelco owns and controls CP Kelco B.V. CP Kelco manufactures a complete line of CMC grades and serves customers in over 80 countries and includes a manufacturing facility as well as an advanced Research and Development (R&D) facility.

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 Botshilu Holdings (Pty) Ltd (Botshilu Holdings)/ Botshilu Private Hospital (Pty) Ltd (Botshilu Private Hospital) and Botshilo Properties (Pty) Ltd (Botshilo Properties)

The Commission has unconditionally approved the proposed merger whereby Botshilu Holdings intends to acquire Botshilu Private Hospital and, indirectly, Botshilo Properties.

Botshilu Holdings is a special purpose vehicle (SPV) established for purposes of the proposed transaction and is wholly owned by RH Managers Fund II en Commandite partnership (RH Managers Fund II). RH Managers Fund II is managed by RQ Capital Partners (Pty) Ltd (RQ Capital Partners"). RH Managers Fund II is a licensed discretionary fund manager and through RQ Capital Partners, manages Razorite Fund II which is a R1.25 billion fund and it has a 10-year investment horizon with 8 years remaining. The Razorite Healthcare Funds focus on investing in healthcare infrastructure, providing accessible and affordable quality healthcare to the greater population of South Africa. The mandate of the Funds is to invest in three healthcare infrastructure segments of the healthcare market namely; acute, sub-acute and primary healthcare.

Botshilu Private Hospital is a 100-bed private multi-disciplinary acute hospital providing various private health care services to the community of Soshanguve and surrounding areas including Mabopane, Winterveld and Hammanskraal. The Commission found that Botshilu Private Hospital subscribes to the National Health Network (NHN). The NHN's primary function is to negotiate hospital tariffs on behalf of independently owned hospitals with the Medical Schemes. The merging parties submit that Botshilu Private Hospital operates independently of any other hospital. Botshilo Properties, a wholly owned subsidiary of Botshilu Private Hospital, is a property upon which Botshilu Private Hospital is located.

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 Gatsby Security SPV (Pty) Ltd (Gatsby SPV)/ Cell C Ltd (Cell C)

The Commission has recommended that the Competition Tribunal (Tribunal) approve the proposed transaction whereby Gatsby SPV intends to acquire certain assets of Cell C (Target Assets) with conditions.

Gatsby SPV is a ring-fenced newly incorporated special purpose vehicle which was incorporated for the sole purpose of entering into the proposed transaction. Gatsby SPV will be controlled by a Trust that is yet to be formed. Gatsby SPV is a newly incorporated firm which does not sell any products, nor does it provide any services in South Africa (or elsewhere). The sole purpose of Trust will be to hold the entire issued share capital of Gatsby SPV and it therefore does not provide any services or products.

Cell C is a mobile network operator (MNO) in South Africa. It provides voice and data services to mobile customers, and also partners with fibre network operators to provide fibre services. Cell C also services business clients through voice and mobile data, value added services such as cell

phone insurance and number portability, telecom expense management, and also acts as a Wireless Application Service Provider.

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 other public interest concerns.

Despite the above finding, the Commission notes the merging parties are currently not in a position to confirm which trustees will be appointed to the Trust that will control Gatsby SPV. The Commission is of the view that the proposed transaction may raise competition concerns, such as *inter alia*, anticompetitive information exchange should the trustees appointed to the Trust include individuals from firms that compete with Cell C or present undisclosed competitive overlaps which were not considered in the assessment of the proposed transaction.

To remedy this potential risk, the Commission recommends that the proposed transaction be approved subject to conditions that Gatsby SPV and/or the Trust will not be owned/controlled by firms that compete or may compete with Cell C or firms that have a vertical relationship with Cell C (other than a lending relationship).

[ENDS]

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