



**competition commission**  
*south africa*

**Weekly Media Statement**  
**For Immediate Release**  
**04 February 2022**

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

The Competition Commission of South Africa (CCSA) held its ordinary meeting on Tuesday 01 February 2022, to review and take decisions on matters brought before the Commission by members of the public and corporate applicants, in terms of the Competition Act (89 of 1998) as amended. These matters include, but are not limited to complaints, mergers and acquisitions.

### **1. MERGERS AND ACQUISITIONS**

#### **1.1 Bravo Group Manufacturing Proprietary Limited (Bravo) / L&P Springs South Africa Proprietary Limited (L&P SA)**

The Commission has conditionally approved the proposed merger whereby Bravo intends to acquire L&P SA.

Bravo manufactures lounge furniture and sleep products through two separate divisions, namely its “Lounge Division” and its “Sleep Division”.

The Lounge Division manufactures lounge suites and recliners, coffee tables and headboards under the brands La-Z-Boy, Grafton Everest, Alpine Lounge and Gommagomma. The Sleep Division manufactures mattresses and base sets under brands such as Sealy, Edblo, Slumberland and King Koil. Relevant to the proposed transaction are Bravo’s activities relating to the manufacture of mattresses conducted through its Sleep Division.

L&P SA manufactures and supplies a variety of open coil and fabric-encased mattress innersprings including Bonnell, Verticoil, Offset, Pocket, Semi-Flex and Multi Decker versions. The various innersprings are used in the manufacture of mattresses by firms such as the Acquiring Firm.

The Commission received concerns from L&P SA's customers regarding input foreclosure. The Commission and the merging parties agreed to a remedy that L&P SA will continue to supply its other customers on a non-discriminatory basis and on terms which are economically feasible for a period of 2 years post-merger. The period of the supply remedy was determined with references to the availability and quality of alternatives available to L&P SA's customers as well as the market position of the target firm.

The Commission also received concerns regarding customer foreclosure. These concerns were also addressed through a supply condition which will require Bravo to continue to purchase a certain percentage of its innersprings requirements from its current suppliers for 2 years following the implementation of the merger.

The proposed merger does not raise public interest concerns.

The Commission approves the proposed transaction subject to conditions.

## **1.2 Wisium SA Proprietary Limited (Wisium) / Comhan Products Proprietary Limited (Comhan)**

The Commission has conditionally approved the proposed merger whereby Wisium intends to acquire Comhan.

Wisium SA Proprietary Limited ("Wisium") is a private company incorporated in South Africa. Wisium is controlled by Archer-Daniels-Midland Company ("ADM"). ADM is a firm incorporated in accordance with the laws of Delaware, United States of America. ADM, through its affiliates and subsidiaries, is a global producer of food and beverage ingredients as well as other products made from oilseeds, corn, wheat, and other agricultural commodities. ADM's products include natural flavours and colours, health and nutritional products, vegetable oil, corn sweeteners, flour, animal feed and biofuels.

Comhan is active in the field of human nutrition. In particular, the company specialises in the importation and distribution of food ingredients including flavourings, emulsifiers, stabilisers, sweetening blends, energy blends, compounds, and gum acacia. The target firm is a distributor for ADM's food additive products in South Africa and other countries in Sub-Saharan Africa.

The Commission found that the proposed transaction does not substantially prevent or lessen competition in any market.

Regarding public interest, the merging parties committed to a suite of conditions intended to (i) promote participation by small and black-owned firms in the market and (ii) support workers and students who are also HDPs.

The Commission therefore approves the proposed transaction subject to conditions.

### **1.3 DAWAA'A Restricted Limited (DAWAA'A)/ Pharma Strategy Partners GmbH Pharma Strategy).**

The Commission has unconditionally approved the proposed merger whereby DAWAA'A intends to acquire Pharma Strategy.

DAWAA'A is a company incorporated in Abu Dhabi. DAWAA'A is ultimately controlled by Abu Dhabi Developmental Holding Company PJSC (ADQ). ADQ is owned and controlled by the Government of Abu Dhabi. DAWAA'A does not control any firm/s in South Africa, nor does it generate any turnover in, into or from South Africa.

ADQ holds interests in several portfolio companies across various sectors globally. In South Africa, ADQ operates through Louis Dreyfus Company Africa (Pty) Ltd (LDC Africa). LDC Africa through its subsidiaries in South Africa is a supplier of agricultural goods (i.e., oilseeds such as soybeans and sunflower seeds), and grains (maize and wheat). LDC Africa also supplies crude sunflower oil and sunflower meal, maize flour, and sorghum flour.

Pharma Strategy is a private company duly incorporated in accordance with the laws of Switzerland. Pharma Strategy is a holding company for Acino International AG (Acino), a company incorporated in accordance with the laws of Switzerland.

In South Africa, Acino operates through four firms focused on the pharmaceutical market. Acino and its subsidiaries in South Africa will collectively be referred to as the Acino Group. The Acino Group sells, promotes, and distributes medication and related medical products and services. This includes over the counter (OTC) medicine, prescription medicine, and medical devices for human and veterinary use.

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 Acino Pharma AG (Acino AG)/ Certain assets (Target Assets) of Aspen Pharmacare Holdings Limited (Aspen)**

The Commission has conditionally approved the proposed merger whereby Acino AG intends to acquire Target Assets from Aspen.

Acino AG is a company incorporated in accordance with the laws of Switzerland. Acino AG is ultimately jointly controlled by Nordiac Capital CV1 Limited (“Nordic Capital”) and Avista Capital Holdings LP (“Avista Capital”). Acino AG, all firms it controls, all firms controlling Acino AG and all firms controlled by those firms are collectively referred to as the “Acquiring Group”.

The Acquiring Group’s activities include the supply of over the counter and prescription medicines focussing on cardiology and metabolism, central nervous system, gastroenterology, infectiology, oncology, pain and rheumatology, respiratory, urology and women’s health.

The Target Assets comprise of certain generic medications supplied under the brands Altosec, Aspen Graniseton, Ciavor, Grantryl, Trustan and Zuvamor, and related contracts, marketing authorisations, rights, intellectual property, inventory, records and information pertaining to these products. The Target Assets are used for the following therapeutic areas: gastroenterology, erectile dysfunction and cardiovascular diseases.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets.

However, the Commission found that the merger raises public interest concerns. The parties and the Commission have agreed to employment and localisation conditions to address the public interest concerns identified. The merger has been approved subject to those conditions.

### **1.5 FPG Holdings Proprietary Limited (FPG Holdings) / Redefine Properties Limited (Redefine) & Pivotal CCF Proprietary Limited (Pivotal CCF)**

The Commission has unconditionally approved the proposed merger whereby FPG Holdings intends to acquire 3 (three) retail properties from Redefine and Pivotal CCF.

The primary acquiring firm conducts business as a private property fund and is involved in the purchasing, investing and construction of commercial and residential property in South Africa. The FPG Group invests in a selected portfolio of property in the rentable office, retail and industrial sectors.

Redefine is disposing of the following two properties:

- Moreleta Plaza comprising 8,599 m<sup>2</sup> (eight thousand five hundred and ninety-nine square meters) of rentable retail space, situated at the corner of Rubenstein and Garsfontein Drives, Moreleta Park, Pretoria, Gauteng; and
- Blue Downs Mall comprising 8,817 m<sup>2</sup> (eight thousand eight hundred and seventeen square meters) of rentable retail space, situated at the corner of Hindle and Eerste Rivier Roads, Blue Downs, Cape Town, Western Cape.

Pivotal CCF is disposing of one property known as Hazeldean Square comprising 20,169 m<sup>2</sup> (twenty thousand one hundred and sixty-nine square meters) of rentable retail space, situated at the corner of Silver Lakes and Lynnwood Road, Hazeldean, Pretoria, Gauteng.

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 Firstmile Properties JHB CBD Crown Mines Proprietary Limited (Firstmile) and Firstmile Properties Georgian Crescent Proprietary Limited (Firstmile Georgian) / Elite Star , Morulat, Only the Best, Rainbow Place, the Legae Property, the Panama Property, the Queens Court Property and the Long Street Precinct Development as more fully described in the Schedules to Form CC 4(1) (Target Firms)**

The Commission has conditionally approved the proposed merger whereby Firstmile and Firstmile Georgian (Acquiring Firms) intend to acquire the Target Firms from AFCHO Holdings Proprietary Limited (AFHCO).

The Acquiring Firms are part of the Lonsa Group, which is headquartered in Mauritius (collectively, the Acquiring Group). The Acquiring Group is involved in *inter alia*, residential property activities in Gauteng.

The Target Firms' activities are comprised of several residential and retail property letting enterprises located in Johannesburg CBD.

The Commission found that the merger is unlikely to result in a substantial prevention or lessening of competition in any relevant market.

However, the merger results in a dilution of ownership by historically disadvantaged persons (HDPs) in the Target Firms. To address this concern, the Commission and the parties have agreed that post-merger, a percentage of shareholding in the Acquiring Group will be transferred to one or more HDPs.

The Commission found that the merger does not raise any further public interest concerns.

The Commission approves the proposed transaction subject to the conditions.

## **2. COMPLAINTS (REFERRALS & NON-REFERRALS)**

### **2.1 Tsepang Motloung v Glenbrack High School**

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

### **2.2 Njabulo Ngobese v Vuma FM**

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

### **2.3 Kwasi Asare-Baah (Profecia IT) v Not specified**

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

### **2.4 Virgilius A. Chetty and Jacqueline M. Ackerman on behalf of Midlands Veterinary Wholesalers (Pty) Ltd v Hills Pet Nutrition South Africa (Pty) Ltd and its management**

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

### **2.5 Anonymous v WEC Consult**

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

### **2.6 David Barnes v Sitari Estate SCEMHOA's Constitution (Somerset West, Western Cape)**

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

### **2.7 Mpho Blessing Sibanyoni v Telkom and Vumatel**

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

**2.8 Graham W. Midlane v Vumatel**

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

**2.9 Verna Rhonda Douman v NMI Durban South Motors (Pty) Ltd**

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

**2.10 Adlaide Kemp v NMI Durban South Motors (Pty) Ltd**

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

**2.11 Tokelo Nhlapo v Pharmacy Direct**

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

**2.12 Daniel Rossouw v South African Institute of Chartered Accountants (SAICA)**

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

**2.13 Owen Ndlovu, DMS Company v Quentin Stewart and Afsterio Company**

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

**Members of the public can now lodge their complaints by SMS/WhatsApp @084 743 0000**

**[ENDS]**

**Issued by:**

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