



**competition commission**  
*south africa*

**Weekly Media Statement**

**For Immediate Release**

**18 February 2022**

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

The Competition Commission of South Africa (CCSA) held its ordinary meeting on Tuesday 15 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 A.P. Moller – Maersk A/S (APMM) / Senator International (SI GmbH)**

The Commission has recommended that the Competition Tribunal (Tribunal) approve the proposed transaction whereby APMM intends to acquire SI GmbH, without conditions.

APMM's activities encompass Ocean, Logistics, Terminals, and Towage. The ocean activities include the Maersk liner business (Maersk and Sealand) together with the Hamburg Süd brands (Hamburg Süd and Aliança). The logistics activities include logistics and supply chain management services, container inland services, inland haulage activities (intermodal), customs clearance services, air freight forwarding and 'less than container load' (LCL) services. The terminals activities include gateway terminals as well as strategic transshipment hubs under the APM Terminals brand, involving landside activities such as port activities where the customers are mainly container carriers. The towage activities include towage services under the Svitzer brand.

SI GmbH's principal activity is the provision of freight forwarding services in air and ocean freight as well as contract logistics, packaging services and contractual warehousing services. In South Africa, Senator International is mainly active through Senator International Logistics. Senator International Logistics is active in the area of freight forwarding services in air and ocean freight, as well as contractual warehousing services, customs clearance services, and road transport.

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

## **1.2 Twin City Western Cape (Pty) Ltd (Twin City Western Cape)/ Waterway House Section Two (Pty) Ltd (Waterway House)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby Twin City Western Cape intend to acquire Waterway House, without conditions.

Twin City Western Cape is a property investment company, which forms part of the group controlled by Twin City Development (Pty) Ltd ("the Twin City Group"), which controls a diversified retail, commercial, residential, and farming property portfolio (directly and indirectly through its subsidiaries) with properties situated throughout South Africa.

The Twin City Group does not have an interest in any office and/or commercial properties situated within the same geographic area (Cape Town) as the property held by the Target Firm.

Waterway House is a property holding company, with its share in the sectional scheme situated in Waterfront, Cape Town, Western Cape ("Waterway House South Building"), which is an office property.

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

### **1.3 TLC Midco Proprietary Limited (TLG Midco) / The Logistics Group Proprietary Limited (TLG)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby TLG Midco intend to acquire TLG, with conditions.

TLG MidCo and its direct controller, TLG Acquisition Holdings, were established for the purposes of the proposed transaction and thus do not undertake any business activities in South Africa or elsewhere.

The TLG Group operates strategic logistical and terminal assets in Southern Africa including port and rail terminal services, warehousing facilities, stevedoring facilities and digital transport technology services.

The merging parties proposed an Empowerment Transaction as a way to increase the levels of ownership by historically disadvantaged persons in firms in the market in terms of Section 12A(3)e of the Competition Act.

The Commission therefore recommends that the proposed transaction be approved subject to Conditions.

### **1.4 CFAO Holdings South Africa Proprietary Limited (CFAO) / EIE Group Proprietary Limited (EIE Group)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby CFAO intend to acquire EIE Group, with conditions.

The acquiring firms are involved in, *inter alia*, the manufacture and supply of industrial materials handling equipment such as forklifts.

The target firms are involved in the distribution (sales and rentals) repair and maintenance of various original equipment manufacturer (OEM) brands of material handling equipment, including that manufactured by the Acquiring Group.

The Commission found that the merger is unlikely to result in any competition concerns in any relevant market.

To address public interest concerns arising from the merger, the merging parties have agreed to dispose of a percentage of the shareholding in the target firms to one or more historically disadvantaged persons, post-merger.

The merger does not raise any other public interest concerns.

### **1.5 Air Products South Africa (Pty) Ltd (Air Products) / Weldamax (Pty) Ltd (Weldamax)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby Air Products intend to acquire Weldamax, with conditions.

Air Products primarily manufactures, supplies, and distributes industrial and speciality gases which are used by customers across various industries in South Africa. Air Products supplies its products through various channels such as tonnage, bulk, and packaged gases. Air Products directly supplies customers with tonnage and bulk industrial gas requirements. It supplies packaged gas customers either directly, or through gas distributors that it controls, or through a network of independent distributors such as Weldamax (the target firm in the instant transaction). Air Products directly owns three distributors, however, of relevance to the

proposed transaction is MIA Gas (Pty) Ltd (MIA Gas) as it distributes similar products to Weldamax.

MIA Gas distributes Air Products packaged industrial and speciality welding gases through its three branches located in Boksburg, Roodepoort, and Pinetown. MIA Gas also makes ancillary sales of welding machines, and consumables. MIA Gas is also a distributor of LPG in cylinders, which Air Products does not produce or supply.

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

From a public interest perspective, the Commission and the merging parties have agreed to conditions which will promote transformation and supplier development in relevant markets.

## **1.6 DSM Nutritional Products South Africa (Pty) Ltd (DSM) / Biomin Animal Nutrition (Pty) Ltd (Biomin)**

The Commission has unconditionally approved the proposed merger whereby DSM intends to acquire Biomin.

The DSM Group is a global producer, developer, and supplier of vitamins, carotenoids, Omega-3 & 6 nutritional lipids, nutraceutical ingredients, and nutritional premixes to the dietary supplement, food, and pharmaceutical industries.

In South Africa, the DSM Group comprises two divisions – one to support Animal Nutrition and another to support Human Nutrition. Of relevance to the proposed transaction is the Animal Nutrition division which supplies vitamins, carotenoids, eubiotics, and feed enzymes to the animal feed industry. DSM South Africa also provides nutritional animal premixes.

Biomin is ultimately controlled by Biomin GmbH. Biomin is a specialty animal nutrition and health business, specializing primarily in mycotoxin risk management and gut health performance.

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 Heriot Properties Proprietary Limited (Heriot Properties) / Safari Investments (RSA) Limited (Safari)**

The Commission has unconditionally approved the proposed merger whereby Heriot Properties intends to acquire Safari.

The Heriot Group is a property holding and investment company that owns a diversified portfolio of retail, industrial, commercial and specialised properties in South Africa.

Safari is a property investment company listed on the JSE as a REIT. Safari is a listed entity that owns various retail and residential properties in South Africa that it rents to tenants. The majority of Safari's property portfolio consists of retail properties which, for the most part, are located in and around Pretoria. Safari also owns a medical facility, the Advanced Soweto Day Hospital in Protea Glen, Soweto and various pieces of undeveloped land.

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.

### **1.8 PCI Bidco Proprietary Limited (PCI Bidco) / Paycorp Investments Proprietary Limited (Paycorp Investments)**

The Commission has unconditionally approved the proposed merger whereby PCI Bidco intends to acquire PCI Bidco.

PCI Bidco is a newly established company. As such, it does not provide any products or services in South Africa.

Paycorp Investments owns and operates large, automated teller machine ("ATM") estates in multiple countries and provides state-of-the-art transaction processing, terminal management, and value-added services across ATM networks, merchant acquires, and card issuers.

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.

#### **1.9 SGRP Meridian (Pty) Ltd (SGRP Meridian)/ CMR Meridian (Pty) Ltd (CMR Meridian)**

The Commission has unconditionally approved the proposed merger whereby SGRP Meridian intends to acquire CMR Meridian.

SGRP Meridian offers sales and merchandising service primarily into the fast-moving consumer goods sector of South Africa, mainly to manufacturers and few retailers.

CMR Meridian is a service business offering a sales and merchandising service primarily into the fast-moving consumer goods sector of South Africa, mainly manufacturers and few retailers.

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.

### **1.10 Everest Corrugated Proprietary Limited (Everest Corrugated)/ C-Pack Corrugated Proprietary Limited (C-Pack)**

The Commission has unconditionally approved the proposed merger whereby Everest Corrugated intends to acquire C-Pack.

Everest Corrugated manufactures corrugated boards or sheets from its facility in the south of Johannesburg and supplies these corrugated boards to Pride Pak and Boxlee. Everest Corrugated is also involved in the production of corrugated boxes and packaging.

C-Pack is involved in the production of corrugated boxes and packaging. In this regard, C-Pack manufactures a wide variety of corrugated cartons for the industrial, agricultural, and consumer markets, as well as the wine and fishing industry from its facility located in Cape Town. C-Pack stocks a range of standard products and also manufactures custom sizes to suit its clients' particular specifications.

C-Pack's activities are largely limited to the Western Cape but it does make some limited sales to customers in the Eastern Cape.

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.

### **1.11 Ikhwezi Foods Proprietary Limited (Ikhwezi)/ The retail and wholesale business carried on by Massmart Wholesale Proprietary Limited (Massmart) in relation to the store known as "Manguzi Cash and Carry" (Target Business)**

The Commission has unconditionally approved the proposed merger whereby Ikhwezi intends to acquire Target Business from Massmart.

The Acquiring Group is a retail and wholesale group which currently owns and operates retail outlets in the KwaZulu Natal Province, consisting of both grocery and liquor wholesale and retail operations.

The Target Business is a retail and wholesale business, situated in Kwa Ngwanase, Manguzi, KwaZulu Natal Province. The Target Business is a retail supermarket and liquor store business. The Target Business is ultimately owned by Walmart, a retail and wholesale group, which currently operates retail and wholesale outlets in sub-Saharan countries.

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.

#### **1.12 VIP II Blue B.V. (Blue)/ Vivo Energy Plc (Vivo Energy)**

The Commission has unconditionally approved the proposed merger whereby Blue intends to acquire Vivo Energy.

Blue is a company duly incorporated in terms of the laws of Netherlands. Blue is ultimately controlled by the Vitol Group.

The Vitol Group is an international energy marketing and trading company with subsidiaries and branches countries across the world. Physical supply and distribution of crude oil, petroleum products and natural gas is Vitol's core business. In South Africa, the Vitol Group, through its controlled entities, is engaged in the import of crude oil and wholesale supply of refined petroleum products (i.e., gasoil, gasoline and liquefied petroleum gas ("LPG")), including to the major oil marketing companies and independents. The Vitol Group does not sell lubricants in or into South Africa, nor does it export lubricants from South Africa.

Vivo Energy distributes and sells Shell and Engen branded fuels and lubricants to retail and commercial consumers in Africa and operates in 23 countries across Southern Africa where it has a network of over 2,300 service stations. Vivo Energy does not own any service stations in South Africa. Vivo provides fuels and lubricants to business customers across a range of sectors including mining, construction, power, marine, aviation, transport, wholesalers and manufacturing. Vivo also supplies LPG, primarily to consumers, but also to industrial users.

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.

**1.13 RH Hotel Holdings Proprietary Limited (RHHH)/ The Hotel Property known as Holiday Inn Express at SS Ridgeview (the Hotel Property) currently owned by Erf 3144 Umhlanga Rocks Property Trust (the Target Firm)**

The Commission has unconditionally approved the proposed merger whereby RHHH intends to acquire the Target Firm from the Hotel Property.

RHHH is a hotel management company that focusses on management of hotel operations. The Hotel Property is managed and operated as a 3-star hotel by RHHH.

The Hotel Property is a sectional title property which comprises the hotel space known as Holiday Inn Express.

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.

**1.14 New GX Ventures SA Proprietary Limited (New GX Ventures) / Inhance Supply Chain Solutions Proprietary Limited (Inhance)**

The Commission has unconditionally approved the proposed merger whereby New GX Ventures intends to acquire Inhance.

The acquiring firms are active in a variety of industry sectors, including financial services, telecommunications, media, technology, energy, environmental services and logistics.

The target firms are involved in supply chain consulting and technology, providing design, planning, execution and enterprise visibility services.

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.

#### **1.15 Reatile Solar Power 2 Proprietary Limited (Reatile)/ Hulisani Limited (Hulisani)**

The Commission has conditionally approved the proposed merger whereby Reatile intends to acquire Hulisani.

The Reatile Group is an investment holding company with a focus on the following sectors: (i) energy (with investments in traditional fossil fuels as well as renewable energy), (ii) petrochemical (with investments in storage) and (iii) industrial (via asset management services).

The Target Group operates as an energy investment company and investor in clean energy projects which include both renewable and conventional energy.

The Commission found that the proposed transaction will result in job losses for 5 employees of Hulisani. The retrenchments are due to duplications that arise as the employees of Hulisani will be absorbed into Reatile Group. In this regard, the Commission requested the merging parties to

set aside a fund to be created for each semi-skilled employee, in order for them to further their studies on a qualification of their choosing. The merging parties have agreed to the proposed condition.

The proposed transaction does not raise any other public interest concerns.

The Commission approves the proposed transaction with conditions.

### **1.16 Apex Industrial Holdings Proprietary Limited (Apex holdings)/ Turnmill Holdings Proprietary Limited (Turnmill)**

The Commission has unconditionally approved the proposed merger whereby Apex holdings intends to acquire Turnmill.

The Apex Group is comprised of an advisory business and various investments in the industrial sector including, inter alia, the provision of capital equipment for the mining, construction, and quarrying industries. The Apex Group also supplies aftermarket spare parts and ground engaging tools.

The Turnmill Group is a multi-faceted medium to heavy engineering company which supplies manufacturing, fabrication, machining, welding, and refurbishment services to industrial companies. The Turnmill Group also manufactures pressurised equipment.

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

### **1.17 Triley Bidco Limited (Triley)/ Clinigen Group plc (Clinigen)**

The Commission has unconditionally approved the proposed merger whereby Triley intends to acquire Clinigen.

Triley is a special purpose vehicle established for the purposes of this current transaction. Through Pharmanovia, a United Kingdom based pharmaceutical company, Triley specialising in the late-stage activities of development, co-development, licensing, and acquisition of branded subscription medicines. Pharmanovia also produces and supplies pharmaceutical products, through its distributor.

Clinigen Group, through its various subsidiaries, distributes pharmaceutical products in South Africa.

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.

#### **1.18 AccorHotels South Africa Proprietary Limited (AccorHotels) / Mantis Africa Holdings Proprietary Limited (Mantis)**

The Commission has unconditionally approved the proposed merger whereby AccorHotels intends to acquire the Target Firms from AFCHO Holdings Proprietary Limited (AFHCO).

AccorHotels is an international hotel operator. It has more than 4 200 hotels across 20 brands of international renowned hotels in 95 countries. In South Africa, the Accor Group manages four hotels in Gauteng and Mpumalanga, which are 3-star hotels, namely Mercure Johannesburg Bedfordview Hotel, Mercure Johannesburg Randburg Hotel, Mercure Johannesburg Midrand Hotel and Mercure Nelspruit Hotel.

Mantis Group is a hotels management company, providing full management support including budget compilation and financial expertise to all the hotel establishments under the Mantis brand. The hotel assets managed by Mantis are not owned by the Mantis Group itself.

In South Africa, the properties managed by the Mantis Group are the following 5-star hotels: Oceana Beach and Wildlife Reserve, in Port Alfred in the Eastern Cape, No5 by Mantis, in Gqeberha, in the Eastern Cape, Founders Lodge, in Gqeberha, in the Eastern Cape, Vivari Hotel and Spa, in Johannesburg and Pearl Valley Hotel, in Paarl in the Western Cape.

Mantis also runs various hotels in Botswana, Namibia, Rwanda and Tanzania.

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.

### **1.19 Crossfin Technology Holdings (Pty) Ltd (Crossfin Holdings)/ Crossfin Apis Financing Solutions (RF) (Pty) Ltd (Crossfin Apis)**

The Commission has unconditionally approved the proposed merger whereby Crossfin Holdings intends to acquire Crossfin Apis.

The Acquiring Group is active in the financial technology solutions (“Fintech”) sector through its various subsidiaries and provides payment services, payment devices, mobile point of sale (“POS”) solutions, value added services, sale and leasing of POS hardware and software as well as e-commerce payment gateway services.

Crossfin Apis does not control any firm and only holds a non-controlling interest in Retail Capital Limited (“Retail Capital”). Crossfin Apis is an investment holding company investing in businesses in the financial services sector, with its only interest being the non-controlling interest in Retail Capital.

Retail Capital, albeit not controlled by Crossfin Apis, is a provider of alternative funding to the SME market through unsecured lending wherein the customers do not require collateral or security to secure funding; repayments are linked to cash flow as well as revenue of the said SME. Retail capital has systems that have capabilities to assess and consider data from various providers of POS devices including the Acquiring Group and its competitors such as Payfast and Yoco (via the POS devices) to assess credit worthiness (credit vet) and revert with pre-approved lines of funding where the data supports such funding for merchants. Through these systems, suppliers of POS devices are able to receive anonymised data to credit vet and revert with pre-approved lines of funding where the data supports it.

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.

#### **1.20 Boxwood Property Investment Fund GP Proprietary Limited (Boxwood Property Investment Fund GP)/ FPG Holdings Proprietary Limited (FPG Holdings) in respect of the rental enterprise known as N1 Motor City**

The Commission has unconditionally approved the proposed merger whereby Boxwood Property Investment Fund GP intends to acquire N1 Motor City from FPG Holdings.

The Boxwood Property Group is an independently owned asset manager with a focus on the redevelopment of commercial buildings in Cape Town.

The FPG Property Fund is a South African based property investment and development company. The FPG Property Fund covers all areas of the real estate industry with a focus on the South African retail convenience sector across South Africa and offshore. For purposes of the current transaction, only N1 Motor City is relevant. The N1 Motor City property is classified as a specialist retail motor dealership property and is in Goodwood, 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.

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

### **2.1 Kedibone Moroke v Standard Bank South Africa**

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

### **2.2 Ms Jacqueline Bongwiwe Mchunu v Pick n Pay Supermarket**

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

### **2.3 Malekgeng Collins Kgaria v Quinten Willem Rheeder**

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

### **2.4 TJ en JH Burger, Motorhawens (Pty) Ltd, Hartswater v NJ Hill, Managing Director, Ford Motor Company Southern Africa (Pty) Ltd**

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

### **2.5 Kate Elliott v Ford Claremont**

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

### **2.6 Anonymous v Transnet Freight Rail (Rail planning department) and Aveng Rail (Oupa Galane)**

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

### **2.7 Ntsakile Nkuna v PRASA Procurement Department**

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

**2.8 Markus Franz (Swedespeed Auto) v Volvo Car South Africa (Steven Collins)**

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

**2.9 Nelson Mandela Bay Metropolitan Municipality v Luchuphe Trading, Sovuva Trading and Thita Training and Development Services CC t/a Amaza Development**

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

**2.10 Henry du Plessis v Carina Rossouw**

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

**2.11 Shaun Naidoo c/o Empangeni Auto Renovators CC v Mmela Financial Services (Claims supervisor and quality control)**

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

**2.12 Key Spirit Trading 117 CC t/a Kwiksave Fresh 'n Frozen v The Spar Group and Mega City Retail CC t/a Umlazi Mega City Spar**

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

**2.13 Randall R. Roman for Roman Brother v Dana Spicer Axle**

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

**2.14 Mr I. Roux (Consumer) v Oryx Energies (LPG Gas)**

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

**2.15 Keith Hudson Palmer on behalf of the trustees of the Hombre Body Corporate v Hollard Insurance Company and MLS Brokers**

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

**2.16 Michelle Pienaar v Renault Tokai**

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

**2.17 Rema Tip Top Industry (Pty) Ltd v AP Hanouch (Pty) Ltd t/a Rubber Resources and Anchor Chemicals (Pty) Ltd**

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

**3. Withdrawal of complaints: The Commission has taken a decision to accept the withdrawal of the following complaint**

**3.1 Lesego Molatlhwe v The South African airline industry (Comair, FlySafir and Airlink)**

The Commission has taken a decision to accept the withdrawal of this complaint.

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

**[ENDS]**

**Issued by:**

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