



## **Media Statement**

### **For Immediate Release**

**13 May 2022**

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

The Competition Commission of South Africa (CCSA) held its ordinary meeting on Tuesday 10 May 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 Main Street 1878 (Pty) Ltd (Main Street 1878)/ Grindrod Intermodal Business, Ocean African Container Lines, Maersk Inland Business (Transferred Firms)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby Main Street 1878 intends to acquire the Transferred Firms, with conditions.

Main Street 1878 is a newly incorporated entity established to own and control the Transferred Firms. Main Street 1878, and its joint controlling shareholders (A.P. Moller-Maersk and Grindrod) are collectively referred to as the Acquiring Group.

The Acquiring Group is a transport and logistics company with worldwide activities in the operation of deep-sea container liner services, provision of trucking services, provision of container depot services, warehousing services, freight forwarding services and provision of customs clearance services.

The Transferred Firms, also referred to as the "Target Firms", have activities in the provision of container depot services, trucking services, warehousing services, feeder shipping and port terminal services.

The Commission investigated the transaction and found, amongst others, that the proposed merger might facilitate collusion between the joint controlling shareholders of Mainstreet 1878 (A.P. Moller-Maersk and Grindrod) relating to their activities that will be operated outside Mainstreet 1878.

To remedy this concern, the Commission and the merging parties agreed to a condition that the joint controlling shareholders of Mainstreet 1878 (A.P. Moller-Maersk and Grindrod) shall not disclose or exchange any confidential information in contravention of the Act, that the board of directors sign

confidentiality undertakings and that a confidentiality and information exchange policy be designed for the satisfaction of the Commission.

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 Seriti New Largo (Pty) Ltd (Seriti New Largo)/New Largo Coal (Pty) Ltd**

The Commission has recommended that the Tribunal approve the proposed merger whereby Seriti New Largo intends to acquire New Largo Coal, without conditions.

Seriti New Largo is a wholly owned subsidiary of Seriti Resources, which is a broad-based black-owned, and controlled South African mining company. Apart from Seriti New Largo, Seriti Resources controls a few large coal mining holding companies within South Africa, including Seriti Coal (Pty) Ltd and Thabong Coal (Pty) Ltd. Seriti New Largo, its controller Seriti Resources, and all its subsidiaries will be referred to as the Acquiring Group.

The Acquiring Group is active in thermal coal mining for use by Eskom to generate electric power, with some of the coal being beneficiated for the export market.

New Largo Coal, referred to as the Target Firm, is jointly controlled by the Acquiring Group and the Industrial Development Corporation. The Target Firm comprises a large-scale mining project earmarked to supply the baseload coal to fulfil the requirements of the Kusile power station once it becomes fully operational. Kusile power station was constructed close to the Target Firm, with coal to be produced from the Target Firm earmarked for use at Kusile.

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 U Reit Collins (Pty) Ltd (U Reit)/ Collins Property Projects (Pty) Ltd(Collins)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby U Reit acquired Collins, without conditions.

U Reit is wholly owned by the I Group Investment Trust (I Trust). I Trust and all the firms it directly or indirectly controls will collectively hereinafter be referred to as the Acquiring Group. At the time of the merger, the Acquiring Group was active in the leasing of retail and residential properties located in and around South Africa and Collins, the Target Group, held a portfolio of retail, office, and industrial properties, primarily in Gauteng, Eastern Cape, North West and KwaZulu Natal provinces.

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

#### **1.4 Hapag-Lloyd Aktiengesellschaft (HL AG)/ DAL Deutsche Afrika-Linien GmbH & Co. KG (DAL)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby HL AG intends to acquire DAL, with conditions.

HL AG and all the firms it controls, all the firms controlling HL AG and all the firms controlled by those firms, shall collectively be referred to as HL AG or the Acquiring Firm. The Acquiring Firm is active in the shipping business as an international container liner shipping company, offering global door-to-door and port-to-port containerised cargo services under the Hapag-Lloyd brand through a fleet of approximately 257 container ships.

DAL and all firms it holds direct and indirect control of shall be referred to as the Target Firm. The Target Firm provides liner shipping services and offers ship owners and operators a comprehensive range of services in respect of all types of vessels calling at South African ports. The Target Firm also has a network of offices in South Africa to provide easy access to liner shipping services for the transportation of containerised and break-bulk cargoes between Europe, Africa and the Indian Ocean.

As a result of some concerns arising in relation to employment, the proposed merger is approved subject to conditions that the merging parties shall not retrench any employees as a result of the merger for three years from the implementation date as well as the period between the approval and implementation date.

#### **1.5 Belper Investments (Pty) Ltd (Belper Investments)/Growthpoint Properties Ltd (Growthpoint Properties) and Metboard Properties Limited (Metboard)**

The Commission has approved the proposed transaction whereby Belper Investments intends to acquire five light industrial properties as a going concern from Growthpoint Properties and Metboard Properties, without conditions.

Belper and all the firms, directly and indirectly, controlling shall be referred to as the Acquiring Group.

The Acquiring Group is a newly established property investment company that does not have any business activity. It holds interest in firms that are involved in the provision of rentable residential properties and other retail businesses.

Growthpoint Properties and Metboard Properties, collectively referred to as the Target Firms, are property investment companies that invest in retail properties situated in major urban centres, office nodes and industrial parks.

Relevant to the proposed merger is the acquisition by the Acquiring Group of five light industrial properties as a going concern from Growthpoint Properties and Metboard Properties, including the land, the building/s, the leases and the contracts associated with the properties.

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 CAPM Tau Mine (Pty) Ltd (CAPM Tau)/Tau Lekoa Gold Mining Company (Pty) Ltd (TLMG)**

The Commission has approved the proposed merger whereby CAPM Tau intends to acquire TLMG, without conditions.

In terms of the proposed transaction, the Acquiring Firm will purchase the Target Firm, including the assets and liabilities, employees, and environmental obligations.

CAPM Tau and several other entities are controlled by Pengxin International Mining Co. Limited and are collectively referred to as the Acquiring Group. The Acquiring Group operates mining operations globally, including the production and supply of copper in the Democratic Republic of the Congo, and an exploration project for precious metals in Australia. In South Africa, CAPM Tau's holding company, CAPM APM, is involved in the production and supply of gold and silver (which is a by-product of the production of gold) at the Orkney Gold Mine ("Orkney") located in North-West.

The Target Firm is TLGM, a producer and supplier of gold. The Target Firm operates the Tau Lekoa mine, which is also located in Orkney, North-West ("next door" to Shaft 6 of CAPM APM's Orkney mine). Silver is also produced as a by-product of TLGM's gold production.

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 Lussin Piccolo Africa Properties (Pty) Ltd (Lussin Piccolo) / Investec Property Fund Limited (Investec Property Fund)**

The Commission has approved the proposed transaction whereby Lussin Piccolo intends to acquire three properties from Investec Property Fund, without conditions.

Lussin Piccolo, now referred to as the Acquiring Group, forms part of the Giuricich Group which is held by S Giuricich Holdings (Pty) Ltd and which is primarily engaged in property ownership and development. The Acquiring Group's core business is the ownership of commercial properties.

Investec Property Fund, hereafter referred to as the Target Firm, has a Real Estate Investment Trust and is listed on the JSE. The three properties relevant to this transaction are situated in three provinces and include Builders Warehouse in Bloemfontein (Free State), Polokwane (Limpopo), and Witbank (Mpumalanga).

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 Acciona Energy South Africa Global (Pty) Ltd (AESAG)/ Firefly Investment 238(Pty) Ltd (Firefly)**

The Commission approved the proposed transaction whereby AESAG intends to acquire 35% shareholding in Firefly, without conditions.

AESAG is a special purpose vehicle that was incorporated as a holding company for firms that provide services to companies that own renewable power projects in South Africa, in terms of the Independent-Power-Producer (IPP) Programme. AESAG is controlled by Acciona SA which is listed on the Stock Exchange of Madrid and Barcelona. Acciona S.A and all the firms it controls directly or indirectly are collectively referred to as the Acquiring Group.

The Acquiring Group is involved in the development, engineering, construction, operation, and maintenance of renewable energy assets. It operates in South Africa through AESAG and AESA. The Acquiring Group manages renewable energy projects in terms of the IPP Programme. Through Windfall 59, the Acquiring Group owns a solar photovoltaic facility located in Gouda in the Western Cape, and through Blue Falcon 140, it owns an onshore wind facility located in Kathu in the Northern Cape.

Firefly, the Target Firm, was established to bid in the IPP Programme and to operate and maintain the renewable energy projects owned by the Acquiring Group if their bids in respect of this programme were successful. Firefly operates and maintains the renewable energy projects owned by the Acquiring Group.

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 ELB Equipment Holdings (Pty) Ltd (ELB)/The Scientific Group (Pty) Ltd (TSG) and Surgical Innovations (Pty) Ltd (SI)**

The Commission unconditionally approve the proposed merger whereby ELB intends to acquire TSG and SI.

ELB is a private company wholly controlled by Apex Industrial Holdings (Pty) Ltd which in turn is wholly controlled by Apex Partners Holdings (Pty) Ltd.

ELB is the Acquiring Firm and supplies equipment used in the construction and mining industries. ELB further supplies spare parts and field services and refurbishes and rebuilds facilities.

The Target Group (TSG and SI) distributes medical devices, orthopaedic limb reconstruction equipment and in-vitro diagnostics ("IVD") equipment and consumables. This includes the distribution of: (i) IVD and life science equipment and consumables used in preventative care to hospitals, diagnostic & research laboratories, and research institutes; (ii) medical devices for diagnostic, acute care therapy, cardiovascular and surgery primarily to public and private hospitals in South Africa; and (iii) orthopaedic trauma equipment and consumables to hospitals.

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 African Phoenix Investments Limited (African Phoenix)/ Zarclear Holdings Limited (Zarclear Holdings)**

The Commission has approved the proposed merger whereby African Phoenix intends to acquire Zarclear Holdings, without conditions.

African Phoenix is a public investment holding company with a primary aim to create and sustain long-term value for its shareholders and to invest in assets over a three-to-five-year horizon. African Phoenix, hereafter referred to as the Acquiring Firm, focuses on equity investments in both listed and unlisted firms.

Zarclear Holdings, the Target Firm, is a public investment holding company and controls firms which conduct, among other, the following activities: providing in-house technology services such as computer systems design, financial platform services, and financial technology services and securities lending 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.

#### **1.11 The Dairy Group (Pty) Ltd/Famous Brands Cheese Company (Pty) Ltd (Famous Brands Cheese)**

The Commission has unconditionally approved the proposed merger whereby the Dairy Group intends to acquire Famous Brand Cheese.

The Dairy Group is jointly controlled by the Coega Food Group, the Milk Producers Trust, and the Dairy Farmers Company. Coega Food Group, Dairy Group, Milk Producers Trust, Dairy Farmers Company and all the firms that they control shall be referred to as the Acquiring Group.

The Acquiring Group is active within the dairy value chain through the procurement of raw milk from dairy farmers, which it supplies to other milk processors on a contract basis and uses for its internal production and supply. The Acquiring Group produces UHT milk for retailers such as Woolworths; Pick n Pay and Shoprite and under its own brand, Coastal View.

Famous Brands Cheese, referred to as the Target Firm, is jointly controlled by Famous Brands Management Company (Pty) Ltd and Coega Food Group. Famous Brands Management Company is listed on the JSE.

The Target Firm is active in the production of cheese products such as Mozzarella, Cheddar, processed cheese slices and cream cheese through their cheese production plant in the Eastern Cape. The cheese products are supplied by the Target Firm to one customer namely Famous Brands Management Limited

which is a branded foodservice franchisor with brands such as Steers, Debonairs, Fishways, Milky Lane, Mugg & Bean, Wimpy, Lexis, Mythos, Lupa Questeria, Salsa Mexican Grill, Turn 'n Tender, Vovo Telo, Coffee Couture, House of Coffees, and Fego Coffee.

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 Dawnfull Trading (Pty) Ltd (Dawnfull Trading)/ Investec Property (Pty) Ltd (Investec Property) concerning 50% of the shares and claims in Italite Investments (Pty) Ltd**

The Commission has approved the proposed merger whereby Dawnfull Trading intends to acquire the remaining 50% shares in Italite Investment (Pty) Ltd, without conditions.

Dawnfull Trading, the Acquiring Firm, is a property investment company with its primary activity being to hold the shares and claims in Italite Investments. Dawnfull Trading is wholly owned by Blue Bottle Investments Proprietary Limited ("Blue Bottle Investments") which is in turn wholly controlled by the Mangalani Family Investment Trust ("Mangalani Trust"). Dawnfull Trading and all the firms controlling it will collectively be referred to as the "Masingita Group". Dawnfull Trading already holds a 50% interest in Italite Investments Proprietary Limited ("Italite Investments").

The companies in the Masingita Group are largely investment holding companies. The group is highly diversified with an interest in construction, professional services, and auctioneering. The Masingita Group has interests in eight properties including a 50% shareholding in Makhando Crossing, a property comprising 31,548 m<sup>2</sup> of rentable retail space.

Investec Property, the Target Firm, is a wholly owned subsidiary of Investec Property Group Holdings Proprietary Limited ("Investec Property Group"). Investec Property Group is a wholly owned subsidiary of Investec Limited ("Investec"), a listed firm.

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 Nurture Foods Investment (Pty) Ltd (NFI)/ Dew Crisp Holdings (Pty) Ltd (Dew Crisp)**

The Commission has approved the proposed transaction whereby NFI intends to acquire Dew Crisp, with conditions.

NFI is a South African firm wholly owned and controlled by Agri-Vie Fund II (Pty) Ltd, a private company incorporated in Mauritius. NFI is an investment holding company which currently only controls Fairview Cheese Company (Pty) Ltd and shall hereafter be referred to as the Acquiring Firm.

The Acquiring Firm, through, Fairview Cheese runs a cheesery based in Paarl in the Western Cape and produces a range of over 50 cow's milk and goat's milk artisanal cheeses which include white mould, blue

mould, feta and cream cheese styles. Fairview's range includes both traditional cream cheeses such as Brie and Camembert. Fairview Cheese also imports some goat cheese from Holland.

The Target Firm, Dew Crisp, provides fresh produce, with a focus on salad and vegetable products. The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets.

However, as a result of some concerns arising in relation to employment, there are conditions that have been imposed in relation to offering preferential employment to former employees for two years from the implementation date.

The Commission further found that the proposed transaction does not raise any other public interest concerns.

#### **1.14 Alexander Forbes Group Services (Pty) Ltd (Alexander Forbes)/ EBS International (Pty) Ltd (EBSI)**

The Commission has approved the proposed transaction whereby Alexander Forbes intends to acquire EBSI, with conditions.

Alexander Forbes provides a broad range of employee benefits consulting (including healthcare), investment management, insurance and wealth management solutions and shall be referred to as the Acquiring Firm.

EBSI, referred to as the Target Firm, through its various subsidiaries, is active in the provision of a range of software solutions and services to retirement funds and employee benefits administrators. The Target Firm and its subsidiaries also provide retirement fund administration, disaster recovery and business continuity services. Of relevance to the proposed transaction are the retirement fund administration services of Acquiring Group.

Due to concerns relating to the potential flow of commercially sensitive information within the merged entity post-merger, the transaction is approved subject to conditions that seek to limit the flow of such sensitive information between various entities within the merged entity.

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

#### **1.15 Fidelity ADT Monitoring (Pty) Ltd (FADT)/ National Security and Fire (Pty) Ltd (National)**

The Commission has approved the proposed transaction whereby FADT intends to acquire National, without conditions.

FADT is a wholly owned subsidiary of Fidelity Services Group (Pty) Ltd and together with all its subsidiaries, shall hereafter be referred to as the Acquiring Group.

The Acquiring Group is a security solutions provider in South Africa, offering a range of protection services and equipment. Whereas, National, the Target Business, consists of the contracts and various sale assets.

In terms of the proposed transaction, FADT acquired various sale assets which make up the Target Business. Among others, the sale assets comprise (i) identified clients' contracts for providing monitoring and response services ("M&R") as well as their data, (ii) alarm radios/transmitters, (iii), radio signal relaying site agreements, (iv) radio signal equipment and (v) base stations and radio frequency spectrum licenses. The contracts being acquired comprise a number of clients across four provinces. The clients' contracts entail the provision of M&R services to residential as well as small and medium enterprise clients.

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 (NON-REFERRALS)**

### **2.1 Rev. Dr. Samuel N Modise v Chevonne Percival Administration Plus Insurance**

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

### **2.2 N. F. Ragni v RCL Group Services Grocery Factory Shop**

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

### **2.3 Black Business Council/ASI v Competition Commission (Mr Hardin Ratshususu) Deputy Commissioner**

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

### **2.4 Clifford Makhuane v National Lotteries Commission**

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

### **2.5 Monde Courtesy Dlutu v Tiger Brands, Ashton**

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

### **2.6 Maasene Oupa Kgatle v Intercape**

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

### **2.7 MT Waste Solutions (Pty) Ltd v Isuzu Motors South Africa**

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

### **2.8 EDF Renewables (South Africa) (Pty) Ltd v Noupoot Wind Farm (RF) (Pty) Ltd and/or South Africa Mainstream Renewable Power Developments (Pty) Ltd (and/or subsidiaries thereof)**

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

### **2.9 LM Odayan on behalf of Hugo's Panelshop v Santam Insurance Company**

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

### **3. COMPLAINTS (WITHDRAWAL)**

#### **3.1 Romesh Ramdeen Bhagwandeem v The Gambling Board of South Africa, more specifically the KZN Gambling Board**

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

#### **[ENDS]**

#### **Issued by:**

Siyabulela Makunga, Spokesperson

On behalf of: The Competition Commission of South Africa

Tel: 012 394 3493 / 067 421 9883/(WhatsApp No: 072 768 0238)

Email: [SiyabulelaM@compcom.co.za](mailto:SiyabulelaM@compcom.co.za)

#### **Find us on the following social media platforms:**

Twitter: @CompComSA

Instagram: Competition Commission SA

Facebook, LinkedIn and YouTube: The Competition Commission South Africa