



competition commission
south africa

Media Statement

For Immediate Release

27 May 2022

STATEMENT ON THE LATEST DECISIONS BY THE COMPETITION COMMISSION

The Competition Commission of South Africa (CCSA) held its ordinary meeting on Tuesday 24 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 ARM Bokoni Mining Consortium (Pty) Ltd (ARM Bokoni)/ Bokoni Platinum Mines (Pty) Ltd (Bokoni Platinum)

The Commission has recommended that the Competition Tribunal approve ARM Bokoni's proposed acquisition of Bokoni Platinum subject to public interest conditions.

ARM Bokoni is controlled by African Rainbow Minerals Platinum (Pty) Ltd ("ARM Platinum"). ARM Platinum is in turn controlled by African Rainbow Minerals Limited ("ARM"). ARM and all the firms directly and indirectly controlled by it will hereinafter be collectively referred to as the "ARM Group".

ARM Bokoni, hereafter referred to as the "Acquiring Firm", is an SPV established for the proposed transaction and does not have any business activities. The ARM Group is a diversified mining and minerals company with operations in South Africa and a manganese alloy production plant in Malaysia. The ARM Group mines and beneficiates iron ore, manganese ore, chrome ore, platinum group metals, nickel, ferromanganese, and coal and also has a strategic investment in gold.

Bokoni Platinum is wholly owned by Bokoni Platinum Holdings (Pty) Ltd. Bokoni Platinum does not directly or indirectly control any firm. Bokoni Platinum and all the firms, directly and indirectly, controlling it will hereinafter collectively be referred to as the "Target Group". The Target Group holds the mining rights to and operates Bokoni Mining, an underground PGM mining operation located in the Limpopo Province which forms part of the North-Eastern Limb of the Bushveld Complex.

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 however requested that the merger be

approved subject to certain public interest conditions. The agreed upon conditions include commitments to support a greater spread of ownership by historically disadvantaged persons as well as conditions related to employment.

1.2 Apollo Management L.P. (Apollo Management)/Tenneco Inc. (Tenneco)

The Commission has approved the proposed merger whereby Apollo Management intends to acquire, through Pegasus Holdings III LLC (Pegasus), sole control of Tenneco, without conditions.

This is an international transaction that has been notified in several other jurisdictions and has been cleared in Canada, the United State of America (USA), and Turkey.

Apollo Management, through Pegasus, is the Acquiring Firm and was established in the USA. Apollo Management manages the private equity activities of Apollo Global Management Inc. (AGM) together with affiliated management companies ("Apollo"). Apollo Management is also responsible for the supervision and control of the entities that manage the investment funds managed by affiliates of Apollo ("Apollo Funds").

AGM, Apollo Management, and all of the firms controlled, and the investment funds managed by Apollo Funds shall be referred to as the 'Acquiring Group'.

The Acquiring Group manages investment funds through its affiliates and invests in companies throughout the world, including South Africa. Examples of current investments include, *inter alia*, companies in education, insurance, financial services, lighting, communication, chemicals, security, packaging, and leisure businesses. In South Africa, the Acquiring Group provides services to steel producers. Its core services include slag handling by several methods, processing slag for use by steel mills, selling processed slag as well as recovery and sizing of scrap metal to customer specifications.

Tenneco is a USA-based company listed on the New York Stock Exchange. Tenneco controls several entities, including Federal-Mogul of South Africa (Pty) Ltd, Federal-Mogul Aftermarket Southern Africa (Pty) Ltd, Tenneco Ride Control South Africa (Pty) Ltd and Tenneco Automotive Holdings SA (Pty) Ltd. Tenneco and its subsidiaries shall be referred to as the "Target Group".

The Target Group is a global supplier of components for motor vehicles for Original Equipment Manufacturers (OEM) and aftermarket customers. It is active in the design, manufacturing, and distribution of clean air and powertrain products, performance solutions products and systems as well as motor parts, which include shocks and struts, steering, suspension, braking, sealings, emissions control, and engine components. In South Africa, the subsidiaries of the Target Group provide OEM and aftermarket products to automotive, commercial, aerospace, marine, rail, and industrial customers.

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 Roman's Pizza Holdings (Pty) Ltd (Roman's Pizza Holdings)/ Roman's Pizza (Pretoria) (Pty) Ltd ("Roman's Pretoria")/ Roman's Distributors (Pty) Ltd ("Roman's Distributors") and Roman's Catering Enterprises (Pty) Ltd ("Roman's Catering"), (the "Proposed Transaction").

The Commission has approved the transaction whereby Roman's Pizza Holdings intends to acquire 80% of Roman's Pretoria, Roman's Distributors, and Roman's Catering, with conditions.

Roman's Holdings is a newly formed private company, directly owned by Apiro Investments (Pty) (Apiro HoldCo), which in turn is controlled by a trust. Roman's Holdings, Apiro HoldCo, and the trust will hereafter be referred to as the "Acquiring Group".

The Acquiring Group was recently formed for purposes of this transaction and as such does not conduct any business activities in South Africa.

Roman's Pretoria, Roman's Distributors, and Roman's Catering, hereafter referred to as the "Target Firms", are all wholly and directly controlled by an individual.

The Target Firms conduct the following business activities throughout South Africa:

1. Roman's Pretoria – owner of three Roman's Pizza fast food stores and Franchisor for the Roman's Pizza brand;
2. Roman's Distributors – supplier of fast-food ingredients to franchisees; and
3. Roman's Catering – supplier of kitchen equipment to franchisees and the supplier of fast-food products to franchisees.

Roman's Pretoria has approximately 230 Roman's Pizza franchisee stores throughout South Africa.

The Commission found that it is unlikely that the proposed transaction will lead to a substantial prevention or lessening of competition in any relevant markets. The Commission however raised certain public interest concerns in respect of the proposed transaction. To address the Commission's public interest concerns with specific reference to small and medium enterprises (SME) operating as Romans' Pizza franchisees owned by Historically Disadvantaged Persons (HDPs and/or HDP Franchisees), the merging parties agreed to the following conditions:

- i. Making an HDP Franchisee Fund available to assist prospective HDP franchisees to invest in and establish Roman's Pizza Branches;
- ii. The HDP Franchisee Fund will assist with capital expense assistance and by providing royalty/ stock subsidies;
- iii. Access to the HDP Franchisee Fund, particularly the capital expense assistance, will be subject to a prospective HDP Franchisees meeting all other qualifying criteria; and
- iv. In addition to the HDP Franchisee Fund contributions, the Acquiring Firm will ensure that the appropriate Roman's group entities make available more favourable credit facilities set at a specific value for which existing and prospective HDP Franchisees can apply.

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

1.4 Espin Capital Private Equity Fund 2018 (Pty) Ltd (Espin)/ Neuboea Investments (Pty)Ltd (NewCo)

The Commission has approved the proposed transaction whereby Espin intends to acquire 30% of NewCo, without conditions.

Espin is jointly controlled by Espin Capital Fund Managers (Pty) and Corvest 200 (Pty) Ltd. Espin, hereafter referred to as the “Acquiring Firm”, was established in 2018 as a private equity investment fund in South Africa. It seeks to invest in cash-generative businesses predominantly operating in South Africa. In terms of current investments, Espin controls K2018615666 Proprietary Limited ("KPL") which in turn holds 51% of the shares in Centillion Trading Proprietary Limited ("Centillion"). Centillion is based in Durban and manufactures paper and plastic products.

NewCo, now referred to as the “Target Firm”, is a special purpose vehicle designed to house the business of MGM. MGM manufactures gears and associated components. MGM provides a complete in-house gear manufacturing, industrial gearbox repairs, and re-engineering service, and specialises in industrial gear manufacturing and precision machining for the mining, construction, agriculture, railway, military, and industrial sectors. MGM manufactures gear parts that distribute power as per the requirements of the various off-highway vehicles and industrial machines in which the parts are installed.

The Commission found that it is unlikely that the transaction will lead 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.

1.5 Eastvaal Motors (Pty) Ltd (EVM)/Combined Auto Holdings (Pty) Ltd (CAH)

The Commission has approved the proposed transaction whereby EVM intends to acquire a new and used multi-brand vehicle dealership, situated in Middelburg, Mpumalanga (Target Dealership) from CAH, with conditions.

EVM is controlled by Eastvaal Motors Holdings (Pty) Ltd. EVM, the firms that control it, and the firms it controls will hereinafter be referred to as the “Acquiring Group”. The Acquiring Group comprises of a group of companies conducting business primarily in the vehicle dealership market. The Acquiring Group operates various motor dealerships situated in Witbank, Middelburg, Secunda, Standerton, and Bethal. The Acquiring Group also operates a dealership in the North-West Province situated in the Potchefstroom

area. Brands sold by the Acquiring Group include the following: Ford, GWM, Honda, Hyundai, Kia, Isuzu, Haval, Mazda, Suzuki, Citroen, Peugeot, Cherry, and Toyota.

The Target Dealership consists of a new and used multi-brand dealership, situated in Middelburg, Mpumalanga. The Target Dealership is controlled by CAH. The Target Dealership sells new and used light commercial and passenger vehicles, including Alfa, Jeep, Peugeot, Cherry, Fiat, Citroen, Suzuki, JAC, and Mahindra.

The Commission found that the merger is unlikely to substantially prevent or lessen competition in any relevant market but found that in respect of public interest, it would result in a dilution of ownership by HDPs in the Target Firm. To remedy the public interest concern, the Acquiring Firm will ensure that within 12 (twelve) months from the Implementation Date, the Target Firm will be placed in an existing B-BBEE empowered subsidiary of the Acquiring Group, namely Eastvaal Fleet Service (Pty) Ltd. The Commission is of the view that considering the particular facts of this case, the above condition remedies the public interest concern resulting from the proposed merger.

1.6 Tangatron (Pty) Ltd/ Capital Propfund (Pty) Ltd (Capital) and JR 209 Investments (Pty) Ltd (JR 209)

The Commission has approved the transaction whereby Tangatron intends to acquire 50% of the immovable property and letting enterprise known as "*Portion 3 of Erf 1868 Witfontein Extension 86 Township Registration Division JR Gauteng Province*" situated at Eastport Boulevard, Eastport Logistics Park, Corner R21 Expressway and R25, Witfontein Extension 86, Gauteng ("Target Property") from Capital and JR 209, without conditions.

The 50% shares will be purchased in the following manner: Tangatron will acquire 32.50% from Capital and 17.50% from JR 209.

Tangatron is wholly owned by Bizzeli Property Investment Enterprises (Pty) Ltd, which in turn is wholly owned by the Trustees for the time being of Elpina Trust. All the firms directly or indirectly controlled by Elpina Trust will collectively hereinafter referred to as the "Acquiring Group". The Acquiring Group is the owner of immovable properties and letting enterprises situated in Gauteng and KwaZulu Natal.

Relevant to the proposed transaction is the warehouse, measuring 3200m² situated in Erf 474, Tunney, Ext 9, Johannesburg classified as light industrial property/ warehouse.

The primary target firm is the Target Property. The shares in the Target Property are currently held by Capital (65%) and JR 209 (35%). The Target Property is an immovable light industrial property/warehouse with Gross Lettable Area ("GLA") of 14 355m².

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.

2. COMPLAINTS (NON-REFERRALS)

2.1 Jokie Grobler v Mahindra Witbank

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

2.2 Anonymous v Ndabase Printing Solutions, Freedom Stationery and the Department of Education, KZN

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

2.3 Sulnisa Garages (Pty) Ltd, formerly Galker Property Investment (Pty) Ltd v Astron Energy (Pty) Ltd

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

2.4 Pacific Blaze Investments (Pty) Ltd trading as Elda Panelbeaters v Volkswagen Group South Africa

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

2.5 Vadival M. Pillay, on behalf of Horizon Petrochemicals cc v Shell South Africa Downstream (Pty) Ltd, chairperson (Mtolo Hloniphiwe) and GM Finance (Ms. Barbara Makhubede)

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

2.6 Shaun Balmogim v Hillary Spar Durban, KZN

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

2.7 Mr. Rogan Morrison v Afrihost and MTN

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

2.8 Bongani William Mkhonza v Sentraco Ford – Ladysmith KZN

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

2.9 Michele Joubert v Express Metering / 3rd Party Prepaid Units

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

2.10 Ceri Laird v Evetech and Asusrog_za

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

2.11 Mrs. Thembelihle Angel Sibaya v National Lotto Commission Committee

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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