



competition commission
south africa

Media Statement

For Immediate Release

23 February 2023

**COMPETITION COMMISSION WELCOMES TRIBUNAL'S DECISION PROHIBITING MERGER
BETWEEN CORRUSEAL AND NEOPAK**

The Competition Commission (Commission) welcomes the decision issued by the Competition Tribunal (Tribunal) yesterday, prohibiting the proposed merger between Corruseal Group (Pty) Ltd and Neopak Holdings (Pty). The Tribunal prohibited the implementation of the merger in terms of section 16 (2) of the Competition Act 89 of 1998 (as amended). The reasons for the Tribunal's decision will be issued at a later stage.

On 13 December 2021 Corruseal and Neopak notified the Commission of their proposed intermediate merger. Corruseal is a vertically integrated firm whose activities include the collection and recycling of wastepaper, the manufacture and supply of recycled containerboard paper (using recycled wastepaper), and the manufacture of corrugated sheets/box packaging products. The business operations of Corruseal Group are in KwaZulu-Natal, Western Cape, and Gauteng. Corruseal already consumes very significant volumes of recycled containerboard paper.

Neopak is an independent manufacturer and supplier of recycled containerboard and is not vertically integrated into the downstream market for the manufacture of corrugated board and corrugated boxes. Although Neopak is the only firm with a presence upstream but not downstream, there are a number of firms with only a downstream presence. Given their absence upstream, these non-integrated downstream firms rely on upstream firms (and in particular on Neopak) for recycled containerboard paper, which is their primary input. If these non-integrated downstream firms have no access (or access on inferior terms) to recycled containerboard paper, they will suffer competitive harm and, in turn, so will their customers. New entry or expansion in the short to medium term in the market is unlikely and the market regularly experiences supply shortages at the upstream level. Imports do not adequately (if at all) discipline the market conduct of domestic suppliers.

The Commission determined that the merger, if approved, would result in a permanent structural change in the market. It would increase concentration in a market that is already highly concentrated. In addition,

the Commission found that the market, pre-merger, is highly transparent. The proposed merger would further increase transparency and co-ordination in a market in which several firms have been investigated for or found guilty of collusion. The obvious competition concerns were that the proposed merger would result in the single largest downstream firm controlling the only independent upstream firm. Pre-merger, Neopak has no presence in the downstream market and thus has no incentive to manipulate that market. However, post-merger, once under Corruseal's control, Neopak would have a direct interest in distorting the downstream market to increase its own profits. The post-merger change of incentives would also raise public interest concerns in the form of excluding downstream SMEs and/or HDP firms from participating in or expanding within the relevant markets. Any foreclosure would likely result in employment concerns due to the exit of downstream players.

"The Tribunal's prohibition of the proposed merger ensures that competition in the corrugated packaging market is preserved," said Competition Commissioner Doris Tshepe.

[ENDS]

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BACKGROUND

On 23 March 2022 Corruseal and Neopak applied to the Tribunal for consideration of the proposed intermediate merger, requesting that the Tribunal approve the proposed merger (Tribunal Case No.: IM196Mar22). Mpact Operations (Pty) Ltd (a competitor of the merging parties) and APL Cartons (Pty) Ltd (a Neopak customer) were subsequently granted leave to intervene in the proceedings. The matter was set down for hearing of factual witnesses from 7 November 2022 to 18 November 2022, and for expert witnesses from 13 to 14 December 2022. Closing argument was heard on 2 February 2023. While Corruseal and Neopak proposed a remedy to address the competition harm, the Commission contended that the proposed remedy did not cure the problem. The structural problem of the removal of the only independent supplier remained, the pricing and supply undertakings proffered were of limited duration, and Corruseal and Neopak had embarked on a strategy of offering different remedies to different customers, which would allow them to treat customers dissimilarly, thereby skewing the market and likely creating new competition problems.