



Media Statement

For Immediate Release

17 April 2023

STATEMENT ON THE LATEST DECISIONS BY THE COMPETITION COMMISSION

The Competition Commission of South Africa (CCSA) held its ordinary meeting on Tuesday, 11 April 2023, 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 Anchorage Merger Sub Inc. (“Anchorage”)/ Activision Blizzard, Inc. (“Activision”)

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

The primary acquiring firm is Anchorage, a company registered in accordance with the General Corporation Law of the State of Delaware. Anchorage is a wholly owned subsidiary of Microsoft. In South Africa, Microsoft controls Microsoft (S.A.) Proprietary Limited (“Microsoft South Africa”) and Microsoft 1968 South Africa Proprietary Limited (“Microsoft 1968”). Anchorage does not control any firm/s in South Africa, whether directly or indirectly. Anchorage, Microsoft and all firms controlled by Microsoft are collectively referred to as the “Acquiring Group”.

The Acquiring Group, through Microsoft, is a global technology company active in the provision of several IT-related services. Relevant to the proposed transaction are its gaming activities, which involve the development, publishing, and distribution of games for PCs, consoles, and mobile devices through Xbox Game Studios. Microsoft also publishes games that are developed by other game developers. Microsoft offers Xbox gaming consoles and the Surface series of personal computers.

The primary target firm is Activision, a company registered in accordance with the General Corporation Law of the State of Delaware. Activision is not controlled by any single firm or shareholder. Activision does

not control any firm in South Africa. Activision and all the firms it controls shall be referred to as “The Target Group”.

Globally, Activision develops games for PCs, consoles, and mobile devices and publishes them in most countries around the world. Activision does not own any console (such as PlayStation or Xbox) but its games can be played on both of these consoles. One of the popular games developed and published by Activision is *Call of Duty*.

The primary competition concern in this transaction arose from the (vertical) concern that Microsoft may, post-merger, restrict the distribution of *Call of Duty* to the Microsoft console, Xbox, or make *Call of Duty* available on terms that exclude or undermine the ability of other console manufacturers to compete.

The Commission found that the proposed transaction is unlikely to result in significant foreclosure concerns as the parties do not have the ability and incentive to foreclose competing game distributors, particularly Sony (Playstation) and Nintendo (Switch). Furthermore, the merging parties have made undertakings to continue supplying *Call of Duty* games to other console manufacturers.

Therefore, 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 substantial public interest concerns.

1.2 Units on Park Street (Pty) Ltd (Units on Park Street) / WBHO Construction (Pty) Ltd (WBHO) in respect of a 50% undivided share in Units on Park Assets

The Commission has recommended that the Tribunal approve the proposed transaction whereby Units on Park Street intends to acquire WBHO’s undivided share in the student accommodation letting enterprise known as Units on Park Assets (Target Property), without conditions.

The primary acquiring firm is Units on Park Street, a wholly owned subsidiary of South African Student Accommodation Impact Investments (Pty) Ltd (SASAI). SASAI is controlled by Momentum Metropolitan Life Limited (MML); Eskom Pension and Provident Fund (EPPF); The International Finance Corporation (IFC); and The Danish Sustainable Development Goals Investment Fund K/S (DSDG).

Units on Park Street is a property investment company and holds Units on Park Street’s investment in the target property.

The primary target firm is WBHO’s 50% undivided share in the Target Property. The Target Property is a student accommodation property located in Hatfield, Gauteng.

The Commission is of the view that the proposed transaction is unlikely to substantially lessen or prevent competition in any market in South Africa. The Commission further found that the proposed transaction does not raise any other public interest concerns.

1.3 Verwaltungsgesellschaft mbH (Kali-Union)/ Fertiva (Pty) Ltd (Fertiva)

The Commission has approved the proposed transaction whereby Kali-Union will acquire Fertiva, with conditions.

The primary acquiring firm is Kali-Union, a firm incorporated in the Federal Republic of Germany. Kali-Union is controlled by K+S Minerals and Agriculture GmbH (K+S MinAG), a subsidiary of K+S Aktiengesellschaft (K+S AG).

K+S AG is a mining company based in Germany that extracts salt, potash and magnesium which it supplies to industrial and agricultural companies. In South Africa, K+S AG is active in the supply of granular potassium (K) and magnesium (Mg) based fertiliser inputs. In terms of the fertiliser value chain, K+S AG is active at the upstream level as an international exporter of fertiliser inputs which it supplies to wholesalers in various countries including South Africa. All K+S AG's fertiliser products in South Africa are sold through Industrial Commodities Holdings (Pty) Ltd (ICH), the seller in the current transaction.

The primary target firm is Fertiva, a firm established solely for the proposed transaction. Fertiva is wholly owned by ICH. Fertiva comprises the unincorporated fertiliser division of ICH, which ICH has transferred to Fertiva for the purposes of this transaction.

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

However, to address the public interest concerns arising from the merger, the parties and the Commission have agreed to a package of remedies including, a moratorium on post-merger retrenchments, commitments to education and skills development, and support for historically disadvantaged farmers.

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

1.4 The George Group Proprietary Limited (“The George Group”)/ Quatro Integrated Services Proprietary Limited (“Quatro”)

The Commission has approved the proposed transaction whereby The George Group intends to acquire Quatro, without conditions.

The primary acquiring firm is The George Group. The George Group is controlled by The Kevin Derrick Trust and Sandyway Trading Proprietary Limited.

The George Group provides a variety of facility management services, including security (surveillance and tactical reaction services); landscaping (installation and maintenance of gardens and other turf maintenance-related services), and cleaning services.

The primary target firm is Quatro. Quatro and the firms it controls are hereinafter collectively referred to as the “Target Group”.

Quatro is a national provider of a wide range of facility management services with offices in Pretoria, Cape Town, and Durban. Quatro’s business focuses on the provision of a variety of services that also include security, cleaning, and landscaping, amongst others.

The Commission is of the view that the proposed transaction is unlikely to substantially lessen or prevent competition in any market in South Africa. The Commission further found that the proposed transaction does not raise any other public interest concerns.

1.5 Sandoz Group AG (“Sandoz”) / Astellas Pharma Inc’s (“Astellas”)

The Commission has approved the proposed transaction whereby Sandoz intends to acquire Astellas’ global pharmaceutical product portfolio based on the Micafungin active pharmaceutical ingredient (API) including all associated intellectual property rights (the “Portfolio”), with conditions.

The primary acquiring firm is Sandoz, a company incorporated in Switzerland. Sandoz is controlled by Novartis International AG (“Novartis Group”) which is a listed firm incorporated in Switzerland. Novartis is not controlled by any firm.

The primary target firm is the Portfolio whose API is used to treat various fungal infections. The Portfolio does not include any manufacturing facilities or employees.

The Commission found that the proposed transaction is unlikely to substantially lessen or prevent competition in any market in South Africa.

However, to address public interest concerns, the Commission and the parties agreed to training and skills development conditions to benefit historically disadvantaged unemployed and disabled youth.

2. COMPLAINTS (NON-REFERRALS)

2.1. Tumi Letsaba on behalf of Next Curve Creations (Pty) Ltd v Central Supermarket and Wholesaler

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

2.2 Anonymous v Wright-Millners and Schein Warehouse / The Dental Warehouse – Henry Schein

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

2.3 Isabel September v Telkom

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

2.4 MPU Communications (Pty) Ltd v Dnatel (Pty) Ltd

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

2.5 Clifton Noah v Civil Designer (Mr. Charles Scott) and Nelson Mandela Bay Municipality Officials (Mr. Dwayne Rockman)

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

2.6 Anonymous v School and Leisure, Heathway Centre, Johannesburg

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

2.7 Mr. Abraham Norbert Coetzee v Liberty Life / Susan Kruger (Financial Planner)

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

2.8 Charné Dercksen v Jan Mafokeng

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

2.9 Andre de Waal v Multichoice Group

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

2.10 Febridge Lebea v The City of Tshwane (Tenders EED-29-2-22.23, EED-30-2-22.23, EED-31-2-22.23)

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

2.11 Mary Maseka v Cell C

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

2.12 David Bloch v Vodacom Group Limited

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

2.13 Mr. Madimetja Eric Sekhu v City Trendz, Shop 217, Pretorius Street, Van Erkom Building, Pretoria

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

2.14 Sandross Success Nkuna v Department of Home Affairs

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

[ENDS]

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