



## **Media Statement**

### **For Immediate Release**

**15 May 2023**

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

The Competition Commission of South Africa (CCSA) held its ordinary meetings on 11 April 2023 and 9 May 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 Leif 853 Proprietary Limited (“Leif 853”)/ Zimco Group Proprietary Limited (“Zimco”)**

The Commission has recommended that the Competition Tribunal (“Tribunal”) approve the proposed transaction whereby Leif 853 intends to acquire Zimco, with conditions.

The primary acquiring firm is Leif 853. Leif 853 is jointly controlled by AutoX Proprietary Limited (“AutoX”) and Trinitas Equity Partners Proprietary Limited (“TEP”). AutoX is controlled by Trinitas Fund General Partner Proprietary Limited (“Trinitas”), in its capacity as a juristic representative of Trinitas Private Equity Proprietary Limited (“TPE”). Leif 853, AutoX, TEP, Trinitas, TPE, and any firms controlled by these firms will hereinafter be referred to as the “Acquiring Group”.

The Acquiring Group, through AutoX, is a manufacturer and supplier of automotive lead acid batteries. AutoX supplies automotive lead acid batteries to both original equipment manufacturers (OEMs) and independent aftermarket customers. AutoX supplies automotive batteries to customers in South Africa and other African countries.

The primary target firm is Zimco. Zimco is controlled by H.J Enthoven & Sons Limited, a company incorporated in England and Wales. Zimco controls the following firms: (i) Castle Lead Works Zambia Ltd; (ii) G&W Base & Industrial Minerals (Pty) Ltd t/a G&W Minerals Resources; (iii) Sondor Performance Foams (Pty) Ltd; and (iv) Africa Anodes (Pty) Ltd. Zimco, its divisions and the firms it controls will hereinafter be referred to as the “Target Group”.

The Target Group is active in the manufacturing of secondary lead alloy. In this regard, the Target Group operates a smelter wherein it manufactures secondary lead alloy for supply to the local automotive, mining, and cable industries as well as selected export markets. In the manufacturing of secondary lead alloy, the Target Group gets scrap batteries and scrap lead alloy from several battery suppliers and recycles these into secondary lead alloy through the smelting process. The Target Group also buys scrap batteries from independent scrap battery collectors who collect old batteries from individuals.

The Commission found that there is vertical overlap between the activities of the merging parties in that the Target Group is active in the manufacturing of secondary lead alloys which are used as an input in the manufacturing of automotive lead acid batteries by Auto X (the Acquiring Group) and its competitors. The proposed merger raised significant input foreclosure concerns as the Target Group is the largest manufacturer and supplier of secondary lead alloy in South Africa. Manufacturers of automotive lead acid batteries rely on the Target Group for the supply of secondary lead alloy to varying degrees, with one manufacturer relying solely on the Target Group for its secondary lead alloy supply. The manufacturers of lead acid batteries purchase secondary lead alloy from the Target Group through Lead Supply Agreements or Toll Manufacturing Agreements in terms of which these customers supply scrap batteries to the Target Group which in turn manufactures secondary lead alloy for these customers and charges them a tolling fee.

To remedy the input foreclosure concerns, the Commission and the merger parties agreed to conditions that the parties would continue to honour existing supply agreements with automotive battery manufacturers and, in addition, extend these supply agreements for a further period of five years following the expiry of the existing supply agreements.

The Commission and the merger parties also agreed to conditions that no employees would be retrenched as a result of the merger for a period of 24 months and that the Acquiring Group will make investments to increase or expand the merged entity's operations.

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

## **1.2 K2022877768 (South Africa) (Pty) Ltd (“Bidco”)/ SANTS Private Higher Education Institution (Pty) Ltd (“SANTS”)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby Bidco intends to acquire SANTS, without conditions.

The primary acquiring firm is Bidco. Bidco is wholly controlled by Umoya Edu. Bidco does not directly or indirectly control any firm. Umoya Edu is jointly controlled by Umoya Capital Partners Proprietary Limited

("UCP") and Corvest 15 (Pty) Ltd ("Corvest"). The remaining shares in Umoya Edu are held by UCAP Fund 2 (Pty) Ltd ("UCAP Fund"). Bidco is a newly incorporated entity that will house the business of SANTS post-merger.

Relevant to the proposed transaction, Corvest 12 (Pty) Ltd ("Corvest 12") has a controlling interest in Inscape (Pty) Ltd ("Inscape"). Inscape is a South African registered private higher education institution primarily focused on the design, communication, and architecture fields. Inscape has 12 accredited contact learning programmes (ranging from higher certificates to degrees) and currently has approximately 1 000 students registered across its five campuses in South Africa.

The primary target firm is SANTS. SANTS is wholly owned by the J2LD. J2LD is wholly owned and controlled by the Sheshego Trust. The Sheshego Trust does not directly or indirectly control any other firms.

SANTS is a distance-learning tertiary education business that specialises in professional teaching qualifications. SANTS has three accredited distance learning programmes, namely (i) Diploma in Grade R Teaching, (ii) Bachelor of Education in Foundation Phase Teaching, and (iii) Bachelor of Education in Intermediate Phase Teaching.

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 Clicks Investments (Pty) Ltd ("Clicks Investments")/ Sorbet Holdings (Pty) Ltd ("Sorbet Holdings")**

The Commission has recommended that the Tribunal approve the proposed transaction whereby Clicks Investments intends to acquire Sorbet Holdings from Old Mutual Private Equity V GP (Pty) Ltd ("OMPE V GP"), with conditions.

The primary acquiring firm is Clicks Investments. Clicks Investments controls several firms. Clicks Investments is controlled by New Clicks South Africa (Pty) Ltd ("New Clicks SA"). New Clicks SA is controlled by the Clicks Group Limited ("CGL"). CGL is a public company and not controlled by any individual shareholder. CGL and all the firms that it controls shall be referred to as the "Clicks Group".

The Clicks Group conducts several activities. Of relevance to the proposed transaction are the Clicks Group's activities as a retailer of healthcare, beauty, and toiletry products. The Clicks Group also manufactures and supplies Sorbet-branded beauty and personal care products such as face care, skin care, nail polish, body wash, and make-up ("Sorbet-branded beauty products"). The Clicks Group is responsible for designing and developing the Sorbet branded beauty products and contracts with a third

party to manufacture these products. These Sorbet-branded beauty products are sold at the Clicks Group's stores and can also be ordered on the Clicks Group's website.

The primary target firm is Sorbet Holdings. Sorbet Holdings is controlled by OMPE V GP, acting in its capacity as the general partner of the OMPE Fund V GP Partnership, which in turn is the general partner of OMPE Fund V Partnership ("Old Mutual Private Equity"). OMPE V GP is controlled by Old Mutual Limited ("Old Mutual"). Sorbet Holdings controls the following firms: (i) The Sorbet Experience (Pty) Ltd ("TSE"); (ii) Sorbet Man (Pty) Ltd ("Sorbet Man"); (iii) Sorbet Man Woodlands (Pty) Ltd and (iv) Candi and Co-Professional Salons (Pty) Ltd. In addition, Sorbet Holdings controls Sorbet Brands (Pty) Ltd ("Sorbet Brands") with Clicks Investments also holding shares in Sorbet Brands. Sorbet Holdings and the firms that it controls shall be referred to as the "Target Group".

The Target Group is a franchisor of the Sorbet brand and franchise system and has approximately 196 franchised salons that are operated independently by several franchisees ("Sorbet Independent Salons"). The Sorbet Independent Salons provide manicures, pedicures, skin care, body massages, hairdressing, and barber services.

The Target Group further sells the Sorbet-branded beauty products at the Sorbet Independent Salons and at its corporate Sorbet Salons. The Sorbet Independent Salons also sell other brands from third-party manufacturers. These products are stocked directly from the manufacturers by the Sorbet Independent Salons.

The Clicks Group will be acquiring the Target Group and not the Sorbet Independent Salons. The Sorbet Independent Salons will continue to be operated independently by individual franchisees.

The Commission is of the view that the proposed transaction is unlikely to substantially lessen or prevent competition in any market in South Africa. To address concerns around the promotion of a greater spread of ownership, Clicks Investments will facilitate and fund up to half of the start-up costs of at least five further franchisees who are historically disadvantaged persons (HDPs) over five years following the implementation date. In addition, Clicks Investments will ensure that within five years of the implementation date, at least 50% of franchise stores will have at least 50% ownership by HDPs.

Clicks Investments and Sorbet Holdings will further collectively commit to increasing local manufacturing of Sorbet-branded products over the next five years. With regards to training, Clicks Investments will ensure that Sorbet Holdings offers 10 000 training sessions for Sorbet franchisees and/or their employees for each of the three years following the implementation of the transaction.

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.

#### **1.4 Sanlam Life Insurance Limited (“Sanlam Life”)/ Capital Legacy Solutions Proprietary Limited (“Capital Legacy”)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby Sanlam Life intends to acquire shares in Capital Legacy, without conditions.

The primary acquiring firm is Sanlam Life. Sanlam Life is a wholly owned subsidiary of Sanlam Limited (“Sanlam”). Sanlam is not controlled by any individual shareholder. The largest shareholders of Sanlam Group are Ubuntu-Botho Investments Proprietary Limited (“UBI”), Public Investment Corporation Limited, and Sanlam Share Account ZA Limited. Sanlam has a non-controlling shareholding in ARC Financial Services Investments Proprietary Limited (“ARC FS”). Sanlam, Sanlam Life, and all their subsidiaries shall collectively be referred to as the “Sanlam Group”.

The Sanlam Group is a diversified financial services firm. Sanlam Group provides insurance (life and general), financial planning, retirement, investments, and wealth management services. The Sanlam Group also provides fiduciary services in the form of drafting, updating, and safekeeping of wills, the administration and winding-up of estates, and the administration of trusts. It also provides life insurance products including death and disability, critical illness cover, income protection, funeral cover, education planning, medical gap cover, and cancer benefit.

The primary target firm is Capital Legacy. Capital Legacy is controlled by High Tide Holdco (Pty) Ltd (“High Tide”). The only other non-controlling shareholder in Capital Legacy is ARC FS. Capital Legacy controls Capital Legacy Fiduciary Services (Pty) Ltd (“Capital FS”); Capital Legacy Board of Executors and Trust Company (Pty) Ltd; and Capital Legacy Cell Captive 00093 (“Cell Captive 00093”). Capital Legacy and all its subsidiaries will collectively be referred to as the “Capital Legacy Group”.

The Capital Legacy Group provides estate administration, trust administration, fiduciary services, and insurance products across South Africa. Its insurance products are provided through a cell captive arrangement with Guardrisk. The insurance and fiduciary services provided by the Capital Legacy Group include (i) the drafting and safekeeping of wills; (ii) administration and winding up of estates; (iii) trust services, whereby Capital Legacy acts as an independent trustee of a variety of trusts and testamentary trusts, drafting trust deeds and providing advice regarding trust structures and taxation; and (iv) the provision of insurance products through a cell captive which is a special purpose vehicle insurance company operating using the Guardrisk license. Capital Legacy does not have a long-term insurance license and is not an insurer.

The Commission found that the proposed transaction is unlikely to result in 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.

### **1.5 ARC Financial Services Investments Proprietary Limited (“ARC FS”)/ Capital Legacy Solutions Proprietary Limited (“Capital Legacy”)**

The Commission has recommended that the Tribunal approve the proposed transaction whereby ARC FS intends to acquire control in Capital Legacy, without conditions.

The primary target firm is ARC FS. ARC FS is controlled by African Rainbow Capital Financial Services Holdings Proprietary Limited (“ARC Finholdco”), and the balance of the shares in ARC FS are held by Sanlam Life. Sanlam Life does not control ARC FS and thus ARC FS is not part of the Sanlam Group. ARC FS, Ubuntu-Botho Investments Proprietary Limited (“UBI”), and their subsidiaries shall collectively be referred to as the “ARC Group”.

The ARC Group is an investment company with investments in companies active in the financial services sector including banking, asset management, insurance, and specialist financial services businesses.

The primary target firm is Capital Legacy. Capital Legacy is controlled by High Tide Holdco (Pty) Ltd (“High Tide”). The only other non-controlling shareholder in Capital Legacy is ARC FS. Capital Legacy controls Capital Legacy Fiduciary Services (Pty) Ltd (“Capital FS”); Capital Legacy Board of Executors and Trust Company (Pty) Ltd; and Capital Legacy Cell Captive 00093 (“Cell Captive 00093”). Capital Legacy and all its subsidiaries will collectively be referred to as the “Capital Legacy Group”.

The Capital Legacy Group provides estate administration, trust administration, fiduciary services, and insurance products across South Africa. Its insurance products are provided through a cell captive arrangement with Guardrisk. The insurance and fiduciary services provided by the Capital Legacy Group include (i) the drafting and safekeeping of wills; (ii) administration and winding up of estates; (iii) trust services, whereby Capital Legacy acts as an independent trustee of a variety of trusts and testamentary trusts, drafting trust deeds and providing advice regarding trust structures and taxation; and (iv) the provision of insurance products through a cell captive which is a special purpose vehicle insurance company operating using the Guardrisk license. Capital Legacy does not have a long-term insurance license and is not an insurer.

The Commission found that the proposed transaction is unlikely to result in 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 CI NMF I Golden Gate B.V. (“CI NMF I”)/ Mulilo Energy Holdings (RF) Proprietary Limited (“MEH”)**

The Commission has approved the proposed transaction whereby CI NMF I intends to acquire MEH, without conditions.

The primary acquiring firm is CI NMF I. CI NMF I is controlled by Copenhagen New Markets Fund I Coöperatief U.A. (“CNMF”), which is in turn controlled by Copenhagen Infrastructure New Markets Fund I

K/S (“CINMF”). CINMF is managed and controlled by Copenhagen Infrastructure Partners P/S (CIP). CIP is not controlled by any firm/s. CI NMF I, CNMF, CINMF, and CIP will collectively be referred to as the “Acquiring Group”.

The Acquiring Group primarily invests in greenfield renewable energy infrastructure projects where there is scale for growth (i.e., increased investment). It is primarily an early-stage investor that provides funding to finance the establishment of new renewable energy infrastructure projects. The Acquiring Group is currently not active in South Africa.

The primary target firm is MEH. MEH is jointly controlled by Die Von Klopmann Trust, Gravelworx Proprietary Limited (“Gravelworx”), and AST Investment Holdings Proprietary Limited (“AST”). MEH controls several firms in South Africa including the following: (i) Mulilo Renewable Energy Solar PV De Aar (RF) (Pty) Ltd, (ii) Mulilo Renewable Energy Solar PV Prieska (RF) (Pty) Ltd, (iii) Mulilo Prieska PV (Pty) Ltd, (iv) Mulilo BTE Prieska (RF) (Pty) Ltd, (v) Longyuan Mulilo De Aar 2 North (RF) (Pty) Ltd, (vi) Longyuan Mulilo De Aar Wind Power (RF) (Pty) Ltd, and (vii) Du Plessis Dam PV (RF) (Pty) Ltd (“Project Companies”).

The Target Firm, MEH, is an investment holding company and operates through the Project Companies. MEH Group through its Project Companies develops, builds, owns, and operates large-scale renewable energy generation projects throughout South Africa.

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.

### **1.7 MICASA Asset Management (Pty) Ltd (“MICASA”)/ NOVUS Print (Pty) Ltd (“NOVUS”)**

The Commission has approved the proposed transaction whereby MICASA intends to acquire a letting enterprise known as ERF 51 Frankenwald, Extension 16 Township Registration Division I.R and ERF 131 Frankenwald, Extension 9 Township Registration Division I.R (“the Target Properties”) from NOVUS.

The primary acquiring firm is MICASA. MICASA is a property holding company that owns two commercial properties, situated at 13-15 Ashfield Avenue, Springfield Park, and 7 Elmsfield Place, Springfield Park as well as a residential property situated at 16 Gemmell Place, Durban North.

The primary target firm is NOVUS in respect of the rental enterprise known as Erf 51 Frankenwald Extension 16 Township, Registration Division I.R., Province of Gauteng, in extent: 1,1042 hectares and held by Deed of Transfer No. T15807/2011 (“Erf 51 Frankenwald”) and Erf 131 Frankenwald Extension 9 Township, Registration Division I.R., Province of Gauteng, in extent: 2,4123 hectares collectively referred to as “the Target Properties”.



The Target Properties are wholly owned and controlled by NOVUS. NOVUS is a wholly owned subsidiary of NOVUS Holdings Limited (“NOVUS Holdings”). NOVUS does not directly or indirectly control any other firm.

NOVUS is a commercial printing business involved in the large-scale printing of magazines, newspapers, retail advertising and marketing inserts, product labels, books, and educational material. NOVUS supplies its printing services to customers located throughout South Africa. The Target Properties provide no services and comprise commercial property space for let which was previously used by NOVUS for general commercial printing and binding.

The Commission found that the proposed transaction is unlikely to result in 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)**

Following its investigations, the Commission has decided not to refer the following matters to the Competition Tribunal for prosecution.

**2.1. Mr. Tendayi Revanewako CEO - Sebeuzani (Pty) Ltd v Nelson Taimo - CEO of International Resources Limited (IRL) South Africa, the new owners of Mapochs Mine (previously Highveld Steel)**

**2.2 Thabo Kenneth Molamu Director: Mputsu Investment Holdings (Pty) Ltd v G4 Roads & Civils (Pty) Ltd and its subsidiaries and/or associates including Jubane Projects (Pty) Ltd, Leruthlare Trading (Pty) Ltd and Jab Machinery Fields Services CC**

**2.3 Mr. Shadrack Kubyane v Ms. Zeenat Dasoo**

**2.4 Tihopi David Thafeni v Platinum Health Medical Scheme**

**2.5 Ms. Penelope Gugu Sepeng v Mr. Robin Kock, CEO at Premier Mapping Group, Premier Mapping CC, Premier Aviation, and Premier Mapping Survey**

**2.6 SA Rotsbore Pty Ltd v Matjhabeng Local Municipality**

**2.7 Thulani Mbongo v Vodacom**

**2.8 Portnet Harbours, NVOCC Container Operators and the Entire Maritime Industry in Totality v South African Ports and Harbours in conjunction with 'Chosen/Dedicated' Shipping Lines, MSC, MAERSK, Pacific Indonesia Line and the entire industry**



**2. 9 Competition Commission v Africa SunOil Refineries (Pty) Ltd**

**2.10 Competition Commission v Woolworths Holdings Ltd /Woolworths (Pty) Ltd**

**2.11 Competition Commission v FR Waring International (Pty) Ltd/ FR Waring Holdings (Pty) Ltd**

**2.12 Competition Commission v Massmart Holdings Ltd/ Massmart Retail (Pty) Ltd**

**2.13 Competition Commission v Pick n Pay Stores Ltd/ Pick n Pay Retailers (Pty) Ltd**

**2.14 Competition Commission v Premier FMCG (Pty) Ltd/ Premier Group (Pty) Ltd**

**2.15 Competition Commission v RCL Foods Ltd**

**2.16 Competition Commission v Shoprite Holdings Ltd/ Shoprite Checkers (Pty) Ltd/ Shoprite Supermarket (Pty) Ltd**

**2.17 Competition Commission v Spar Group Ltd /SPAR Retail Stores (Pty) Ltd/ SPAR Guild of Southern Africa**

**2.18 Competition Commission v Tiger Brands Ltd/ Tiger Consumer Brands Ltd**

**2.19 Competition Commission v D H Brothers Industries (Pty) Ltd t/a Willowton Group**

**2.20 Competition Commission v Wilmar International Ltd /Wilmar SA (Pty) Ltd**

### **3. COMPLAINTS (WITHDRAWALS)**

The Commission has accepted the withdrawal of the following complaint.

**3.1 Legacy Products (Pty) Ltd T/A Legacy Industrial Supplies v L&G Tools and Cosmo Group of Companies (Cosmo Industrial)**

**[ENDS]**

**Issued by:**

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