



Media Statement

For Immediate Release

29 August 2023

STATEMENT ON THE LATEST DECISIONS BY THE COMPETITION COMMISSION

The Competition Commission of South Africa (CCSA) held its ordinary meeting on Wednesday, 23 August 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 G.D.F International S.A ("GDFI")/ Actis Energy Okavango Mauritius Limited ("Actis Okavango")

The Commission has recommended that the Competition Tribunal ("Tribunal") approve the proposed transaction whereby GDFI intends to acquire Actis Okavango, without conditions.

The primary acquiring firm is GDFI, a company incorporated in accordance with the laws of the French Republic. GDFI is wholly owned and controlled by Engie S.A., a public company dual-listed on the Paris and Brussels stock exchanges. The shares of Engie S.A. are widely dispersed and no single firm or individual controls Engie S.A. GDFI, Engie S.A., and entities under its control are referred to as "Engie Group".

The Engie Group operates globally as an Independent Power Producer ("IPP") in the fields of low carbon dioxide power generation, power and natural gas transmission, and the distribution and provision of related energy services.

The primary target firm is Actis Okavango, a company incorporated in accordance with the laws of the Republic of Mauritius. Actis Okavango is wholly owned and controlled by Actis Energy Okavango Holdings Mauritius Limited ("Actis Holdings").

Actis Okavango is an IPP operating through several subsidiaries and has an operating portfolio involving a number of onshore wind and solar PV power projects in South Africa and Kenya.

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 public interest concerns.

1.2 Pick n Pay Stores Ltd (Pick n Pay)/ Tomis Group of companies (Tomis)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Pick n Pay intends to acquire all the assets and the businesses belonging to Tomis, with conditions.

The primary acquiring firm is Pick n Pay. Pick n Pay is not controlled by any firm.

Pick n Pay is a national retail grocery chain selling amongst others, food, groceries, clothing, health and beauty products, general merchandise, and value-added services. In addition, Pick n Pay is also a national liquor retail chain.

The primary target firm, Tomis, is a vertically integrated meat supplier based near Wellington in the Western Cape, which conducts the following activities:

- An abattoir where livestock from Tomis' feedlot are slaughtered.
- A meat processing facility that processes lamb and beef carcasses, primal cuts, and offal from Tomis' abattoir.
- Manufacture of garden compost.

The Commission found that the proposed transaction is unlikely to result in substantial prevention or lessening of competition in any relevant markets.

To address public interest concerns, the parties and the Commission have agreed to a package of remedies including a moratorium on merger-related retrenchments, capital investments, and increasing procurement spend with certain HDP suppliers.

1.3 JMH Doctors SPV (RF) (Pty) Ltd ("Doctors SPV")/ Joint Medical Holdings (Pty) Ltd ("JMH")

The Commission has unconditionally approved the proposed transaction whereby Doctors SPV intends to acquire JMH.

The primary acquiring firm is Doctors SPV. The shares of Doctors SPV are held by more than 500 doctor and non-doctor shareholders (personally, or through various private companies and trusts), none of whom control Doctors SPV.

The primary target firm is JMH. JMH is controlled by 3 Health Holdco Mauritius Limited ("3HH"), and Doctors SPV (the Acquiring Firm). JMH directly controls and indirectly controls a number of subsidiaries, which include, but are not limited to, City Hospital Proprietary Limited; Isipingo Hospital Proprietary Limited; Ghandi Mandela Nursing Academy Proprietary Limited; JMH Property Holdings Proprietary Limited; and New Property Investment Proprietary Limited, amongst others. JMH and all the firms directly and indirectly controlled by it will hereinafter be referred to as the "JMH Group".

The JMH Group comprises four acute hospitals, one sub-acute hospital, three day hospitals, and a behavioural facility.

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 public interest concerns.

1.4 Boxwood Property Investment Fund GP (Pty) Ltd (“Boxwood Fund”)/ Investec Property Fund Limited (“Investec Property Fund”)

The Commission has unconditionally approved the proposed transaction whereby Boxwood Fund intends to acquire the rental enterprise known as Builders Warehouse Tiger Wheel and Tyre The Glen (“Target Property”) from Investec Property Fund.

The primary acquiring firm is Boxwood Fund (in its capacity as a general partner of Boxwood Property Investment Fund (“Boxwood Investment”) *en commandite* Partnership). Boxwood Fund is controlled by Boxwood Asset Management Proprietary Limited (“Boxwood Asset Management”). Boxwood Fund and all firms directly or indirectly controlling it are collectively referred to as the “Acquiring Group”.

The Acquiring Group is active in the property sector. The Acquiring Group’s property portfolio consists of rentable retail, office, and industrial spaces situated in Cape Town and KwaZulu-Natal. The Acquiring Group does not own any rentable retail or office space in Gauteng.

The primary target firm is the Target Property. The Target Property is controlled by Investec Property.

The Target Property is a rentable retail space located in Johannesburg, Gauteng with a gross lettable area of 11 113m².

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 public interest concerns.

1.5 Midlands Veterinary Wholesalers (Pty) Ltd (“Midlands Veterinary”)/ MCP Wholesalers (Pty) Ltd (“MCP Wholesalers”)

The Commission has unconditionally approved the proposed transaction whereby Midlands Veterinary intends to acquire MCP Wholesalers.

The primary acquiring firm is Midlands Veterinary. Midlands Veterinary is not controlled by any individual firm. Midlands Veterinary and the firms it controls shall be referred to as the “Acquiring Group”.

The Acquiring Group is a wholesaler of animal medicine and food, and pet accessories. The animal food supplied by the Acquiring Group consists of dog food; bird food; rabbit food; and hamster food. The dog food supplied by the Acquiring Group includes dry dog food and wet dog food. The animal medicine wholesaled by the Acquiring Group is targeted at pets; livestock; and wildlife. This includes vaccines;

antiparasitic products; vaccines; worming medications and wound and skin care. The Acquiring Group operates in the Gauteng; Eastern Cape; KwaZulu-Natal and Western Cape provinces.

The primary target is MCP Wholesalers. MCP Wholesalers is jointly controlled by the Mark Share Trust and Stanley Share Trust. MCP Wholesalers shall be referred to as the “Target Firm”.

The Target Firm is active in the wholesaling of animal products in the Western Cape, in particular dog foods (dry and wet dog food) and medical products for animals.

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 public interest concerns.

1.6 Spar Group Limited (“Spar Group”)/ Super-A-Super Store (Pty) Ltd (“A Store”) and Super-A Liquor (Pty) Ltd (“A Liquor”)

The Commission has unconditionally approved the proposed transaction whereby Spar Group intends to acquire A Store and A Liquor.

The primary acquiring firm is Spar Group. Spar Group is not controlled by any single shareholder.

The Spar Group is active in the wholesaling and retailing of grocery and liquor products throughout South Africa.

The primary target firms are A Store and A Liquor (“Target Firms”). A Store is jointly controlled by two family trusts. A Liquor is jointly controlled by A Store and an individual.

The Target Firms are in Norwood, Johannesburg. The Target Firms operate as retail outlets in particular a supermarket (Spar) and liquor store (Spar Tops).

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 public interest concerns.

1.7 Ellies Holdings Limited (“Ellies”)/ Magetz Electrical (Pty) Ltd (“Magetz”) and Power On Wheels (Pty) Ltd (“Power”) (collectively trading as ‘Bundu Power’)

The Commission has unconditionally approved the proposed transaction whereby Ellies intends to acquire Bundu Power.

The primary acquiring firm is Ellies. Ellies is listed on the JSE and is not controlled by any firm and/or shareholder. Ellies controls several entities in Southern Africa, including Ellies Infrastructure Holdings (Pty) Ltd, Ellies Electronics Holdings (Pty) Ltd, Ellies Electronics (Pty) Ltd (“Ellies Electronics”), and Ellies Electronics (Namibia) (Pty) Ltd, amongst others. Ellies and the entities under its control are referred to as the “Ellies Group”.

Ellies is an investment holding company involved in businesses that operate in the packaging, trading, and distribution of a diverse range of products and services, including satellite television products and related accessories, electrical, signal distribution, residential and commercial light emitting diode (LED) lighting solutions, solar power equipment, generators, uninterrupted power supply, water solutions, fibre connectivity, sound, and audio-visual equipment distribution and installation. Ellies Electronics, the most significant business in the Ellies Group, operates out of 19 branches and trade counters throughout South Africa and also operates in certain neighbouring countries.

The primary target firms are Magetz and Power, collectively referred to as ‘Bundu Power’ or ‘Target Firms’. Bundu Power operates as a single integrated business that is jointly controlled by three individuals.

Bundu Power provides the following products and services in South Africa:

- Sells and supplies, installs and services gas, diesel and petrol generators, accessories and control panels;
- Sells and supplies, installs and services solar panels, solar pumps, solar inverters and solar batteries, and variable speed drives solar geyser conversions; and
- Rental of gas, diesel and petrol generators for residential and commercial use.

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 public interest concerns.

1.8 Growth Point Healthcare Property (RF) (Pty) Ltd (“Growth Point Healthcare”)/ Johannesburg Eye Hospital (“Target Property”)

The Commission has unconditionally approved the proposed transaction whereby Growth Point Healthcare intends to acquire the Target Property.

The primary acquiring firm is Growth Point Healthcare. Growth Point is not controlled by any firm. Growth Point Healthcare controls K2019084863 (South Africa) (Pty) Ltd. Growth Point Healthcare and Growthpoint Properties and all the firms that they control shall be referred to as the “Acquiring Group”.

The Acquiring Group is a diversified property company with a portfolio of commercial, industrial, and retail property in South Africa and internationally. Growth Point Health is exclusively active in healthcare property and currently houses six hospitals, medical chambers building and a pharmaceutical warehousing and

distribution facility. For the purposes of the proposed transaction, the Acquiring Group owns and controls Cintocare Hospital located in Menlyn, Gauteng consisting of 100 beds.

The primary target firm is the Target Property. The Target Property is controlled by Medwedge (Pty) Ltd (“Medwedge”). Medwedge is not controlled by any firm.

The Target Property is a multidisciplinary specialist hospital property, situated at the corner of Beyers Naude Drive & Waugh Avenue, Northcliff, Gauteng. The facility is licensed as a sub-acute facility with 37 beds as well as a private hospital with 20 beds.

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 public interest concerns.

1.9 Marga B.V (“Marga”)/ Dermalogica South Africa (Pty) Ltd (“Dermalogica SA”)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Marga intends to acquire Dermalogica SA, with conditions.

The primary acquiring firm is Marga. Marga is incorporated under the laws of the Kingdom of the Netherlands. Marga is controlled by Unilever PLC. Unilever PLC is listed on the London Stock Exchange and is not controlled by any single shareholder. Marga and all the firms that directly and indirectly control it, as well as those that they control are referred to as the Acquiring Group. In South Africa, Unilever PLC controls Unilever South Africa Holdings Proprietary Limited (“Unilever SA Holdings”), which in turn controls Unilever South Africa Proprietary Limited (“Unilever SA”).

The Unilever Group is active worldwide in the manufacture and supply of a range of products including food, personal care products, beverage, and cleaning agents. Relevant to the transaction are the skincare brands including Dove, Dawn, Even & Lovely, Lux, Ponds, and Vaseline. In South Africa, Marga supplies Dermalogica skincare products through Dermalogica SA, the primary target firm.

The primary target firm is Dermalogica SA. Dermalogica SA is wholly owned and controlled by The Dermal Institute of South Africa Proprietary Limited (“DISA”). DISA is wholly owned and controlled by CAVI Brands Proprietary Limited (“CAVI”). CAVI is wholly owned and controlled by Candur Active Value Investments Proprietary Limited (“Candur”).

Dermalogica SA is the sole distributor of skincare products licensed by the Acquiring Group in South Africa. The products are sold in South Africa under the Dermalogica brand. The products and services distributed by Dermalogica comprise three interconnected lines: professional, retail and online. Further, DISA offers skincare education and services to skin therapists, consumers, and beauty consultants, viamasterclasses offered through contact and online learning.

The merging parties have agreed to a set of conditions that will address public interest concerns, including that the Target Firm shall provide education and training programs to tertiary students and qualified skincare therapists for a period of two years following the implementation date. The Target Firm shall also spend a set amount annually on marketing and design services procured from SMMEs and HDP-owned or controlled businesses. Finally, the merging parties will set up an entrepreneurial support program aimed at supporting salons in the Target Firm's value chain. All of these conditions will give preference to businesses owned and controlled by Historically Disadvantaged People (HDPs) who are women and youth.

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 other public interest concerns.

1.10 Isowall Group (Pty) Ltd ("Isowall")/ Automa Multi Styrene (Pty) Ltd ("Automa")

The Commission has approved the proposed transaction whereby Isowall intends to acquire Automa, with conditions.

The primary acquiring firm is Isowall. Isowall is controlled by Growth Capital Partners (Pty) Ltd ("GCP") and VDT Investments (Pty) Ltd ("VDT"). In addition to Isowall, GCP (directly or indirectly) controls various entities in South Africa. Isowall wholly controls Isopanel Manufacturing (Pty) Ltd, Isowall Manufacturing (Pty) Ltd and Isoprojects (Pty) Ltd ("Isoprojects"). Isowall and all its subsidiaries will from hereon be collectively referred to as the "Isowall Group".

The overall focus of the Isowall Group is the manufacturing and installation of Isowall sandwich panels, as well as the manufacturing of expanded polystyrene ("EPS") and expanded polypropylene ("EPP") products. Isowall sandwich panels are structural insulated panels used in the building of insulated structures such as cold rooms, classrooms, distribution centres, freezers and abattoirs. Through its Isolite division, the Isowall Group manufactures and supplies EPS and EPP products to users of thermal insulation, packaging, semi-rigid cushioning, automotive and specialised shape-moulded products. EPP products are manufactured specifically for Original Equipment Manufacturers (OEMs) in the automotive industry. Isowall EPP range includes bumpers, headrests, knee pads, door fillers, battery protectors, toolkits and spare wheel compartments. Under the brand of Isocornice, the Group produces decorative EPS shape moulded, and paper-wrapped cornice. Further, through its Hebcooler brand, the Group manufactures and supplies EPS cup and tub-related products throughout South Africa.

The primary target firm is Automa (in Business Rescue) ("Automa"). Automa is wholly controlled by T Ferguson Family Investment Holdings (Pty) Ltd (in Business Rescue) ("TFFI"). Automa and TFFI are currently in business rescue. TFFI trades as Dynamic Artistic Solutions ("DAS").

Automa is a manufacturer and supplier of closed cell foam products and insulation boards in EPS, Neopor, EPP, Pielcelan and Polyphen fire resistant insulation foam. Automa serves industries such as agriculture,

automotive, building and construction, fresh produce and fishery, consumer and white goods protective packaging, foundry, food packaging, and medical, amongst others. The Commission found that Automa is the exclusively licensed supplier of Polyphen fire-resistant insulation foam which is used in the manufacturing of insulated panels by firms such as Isowall. This raises vertical foreclosure concerns.

Conditions attached to the proposed transaction include that the merged entity shall honour Automa's current and future Polyphen contracts or supply agreements. In particular, for as long as Automa remains the exclusive licensed supplier of Polyphen in South Africa, Automa will also continue to supply Polyphen to customers on terms and conditions that are no less favourable than those conditions that existed pre-merger, subject to the same being on reasonable commercial terms.

To address employment concerns, the merged entity shall not retrench any employees in South Africa as a result of the merger for a period of two years following the approval date.

The Commission found that the remedy imposed addresses the competition concerns identified. The Commission further found that the proposed transaction does not raise any other 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 Anonymous v Gammatek (Pty) Ltd

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

2.2 Ricardo Alfred Morris v Sports Betting Companies

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

2.3 Tanya Jooste v Elkanah House

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

2.4 Vusumzi Gwiji v Waverley Girls High School

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

2.5 Anonymous v Takealot

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

2.6 Mad Giant Brewery (Pty) Ltd v Anheuser-Busch InBev

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

2.7 Johanna Masebe v The South African Nursing Council

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

2.8 Xolani Galada v Vumatel, Openserve and Telkom

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

2.9 Kate Elliott v Nissan Milnerton

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

2.10 Harshana Boodhoo v Cute Baby South Africa

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

2.11 Avinash Ramkistan v The Financial Sector Conduct Authority

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

2.12 Tiaan Bosch and Clinton Poonsamy v African Rainbow Capital Investments Ltd (ARC Investments)

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

2.13 Anthony Streak in the capacity as Legal Counsel for Travelstart Online Travel Operations (Pty) Ltd v Tourvest Travel Services (Pty) Ltd and eTraveli

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

2.14 Setecol (Pty) Ltd v Uber Eats South Africa

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

2.15 Paul Pretorius on behalf of The Works Automotive v Tygervalley Ford

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

2.16 MA Developments (Pty) Ltd v Diesel Flameproof Equipment t/a Elgin Flameproofing

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

2.17 Anna Makwatie v Metropolitan Momentum Insurance

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

3. Complaints (Withdrawals)

The Commission has accepted the withdrawal of the following case:

3.1 Thabiso Mathibe v Snooks Estate Protea North Soweto, Matseleng Mogodi and Staff

[ENDS]

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