



competition commission
south africa

Weekly Media Statement

For Immediate Release

28 May 2021

The Competition Commission of South Africa (CCSA) held its ordinary weekly meeting on Tuesday 25 May 2021, 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). These matters include but are not limited to complaints, mergers and acquisitions.

LATEST DECISIONS BY THE COMPETITION COMMISSION

1.1 Sandvik Aktiebolag plc (Sandvik) / DSI Underground Holdings S.à r.l. (DSI)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Sandvik intends to acquire DSI, with conditions.

Sandvik is a company incorporated in accordance with the laws of Sweden. Sandvik forms part of the wider Sandvik Group and is a public company listed on the Stockholm Stock Exchange and is not controlled by any shareholder. In South Africa, the Sandvik group controls the following entities: Sandvik Holdings Southern Africa (Pty) Ltd; Sandvik (Pty) Ltd; Sandvik Mining RSA (Pty) Limited; Seco Tools South Africa; Sandvik Financial Services (Pty) Ltd; and South Africa Newtrax Pty (Ltd). Sandvik and all the firms that are directly or indirectly controlled by it are hereafter, collectively referred to as the “Acquiring Group.”

The Acquiring Group is a global engineering group. The business area of the Acquiring Group is in mining and rock solutions focusing on mining and rock excavation.

In South Africa, DSI, through its subsidiaries, Rocbolt, Rocbolt Technologies Holdings (Pty) Ltd, Rocbolt Technologies Africa (Pty) Ltd and RB Technology Holdings Pty manufacture and supply specialised ground control products to the South African underground mining and geotechnical

industries. The target firm is a mining and tunnelling products provider and is active in ground support products, primarily in hard rock mining. Ground support products are required to maintain the stability of openings and tunnels prior to, during and after excavation. In South Africa, DSI, through its subsidiary, Rocbolt, manufactures and supplies specialised ground control products to the South African underground mining and geotechnical industries.

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

On 31 March 2021, the Commission received an intention to participate by the Department of Trade, Industry and Competition (“DTIC”). The DTIC raised employment concerns regarding the fact that the merging parties have not made an absolute commitment to protect jobs and suggested that consideration must be given to the impact of the merger in terms of section 12A (3) of the Competition Act. The DTIC requested the parties to agree to a condition that no merger related retrenchments should be implemented in South Africa post-merger approval for a period of 24 months.

The merging parties agreed to a condition which will place a moratorium on retrenchments for a period of 24 (twenty-four) months in line with case precedent in similar instances.

Considering the above, the Commission is of the view that the proposed condition will remedy any employment concerns. In addition, the proposed transaction does not raise any other public interest concerns.

In light of the above, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market. Therefore, the Commission recommends that the proposed transaction be approved with employment conditions.

1.2 Motus Corporation Proprietary Limited (Motus) / North Motor Group (Pty) Ltd’s Kia Bryanston) and Honda Sandton New Motor Dealerships (collectively, the “Target Dealerships”)

The Commission has recommended that the Tribunal approve the proposed transaction whereby Motus intends to acquire the Target Dealerships, without conditions.

Motus is an automotive group active in four key business segments, namely (1) import and distribution of new passenger vehicles (PVs), light commercial vehicles (LCVs) and motorcycles; (2) retail and rental of PVs and LCVs; (3) motor-related financial services; and (4) sale of original equipment manufacturer (OEM) spare parts and aftermarket parts.

The Target Dealerships are involved in the (i) sale of new and used Honda PVs and Kia PVs and LCVs; (ii) sale of new Honda motorcycles and used motorcycles for Honda and other brands; and (iii) scheduled maintenance and aftersales services (including OEM spare parts) in respect of Kia PVs and LCVs and Honda PVs and Honda motorcycles.

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 NCR Corporation (NCR) / Cardtronics Plc (Cardtronics)

The Commission has conditionally approved the proposed merger whereby NCR intends to acquire Cardtronics.

NCR is a global technology provider of hardware, software and related services in the financial, retail, hospitality, telecommunications and technology industries. NCR operates globally with subsidiaries and branches in more than 120 countries. NCR's global product offering includes digital offerings for banking, restaurants and retailers, as well as payments processing, multi-vendor connected device services, automated teller machines ("ATMs"), point of sale terminals and self-service technologies. NCR also resells third party networking products and provides related service offerings in the telecommunications and technology sectors.

In South Africa, NCR is active in the banking segment (through a distributor) and, to a lesser extent, the retail and hospitality segments (through channel partners). NCR has entered into a distribution arrangement with Bytes Technology Group (Pty) Ltd ("Bytes"), which procures and distributes NCR manufactured ATM machines to customers in South Africa. Bytes is currently the

sole distributor of NCR ATMs in South Africa. The deployment and installation functions are performed by Bytes on behalf of banks with respect to the NCR ATMs sold. These ATM machines are supplied to Bytes through NCR's Irish affiliate, NCR Global Solutions Limited. Further, NCR has entered into an agreement with Technology Corporate Management (Pty) Ltd ("TCM"). Both Bytes and TCM provide ATM-related services, such as maintenance services for NCR ATM machines in South Africa (on a non-exclusive basis). TCM does not distribute or supply NCR's ATMs in South Africa.

Cardtronics is active in 10 countries including Australia, Canada, New Zealand, Puerto Rico and Spain and offers ATM solutions to retailers and financial institutions. Cardtronics is an independent (i.e., a non-bank) owner, operator and deployer of ATMs, (also known as Independent ATM Deployers ("IADs")). Cardtronics' activities in South Africa relate to the deployment of ATMs that have been sourced from an international manufacturer of ATMs, Chungho Comnet ("Chungho").

Cardtronics is active in South Africa through its subsidiary, Spark, a South African Independent ATM Deployer. Spark's business activities relate to the deployment and operation (installation, maintenance, monitoring and reporting services) of ATMs, and the provision of ATM-related services such as ATM maintenance and repair. In terms of customers, Spark is mainly active in supplying and servicing ATMs in the retail sector.

Given the vertical relationship between the parties in South Africa, the Commission found that the merger entity would likely have the ability and incentives to foreclosure downstream firms active in the distribution and servicing of ATMs. In order to address these input foreclosure concerns arising from the merger, the Commission has imposed conditions to ensure that NCR continues to supply the ATMs and ATM spare parts to its existing service providers for a period following the approval of the proposed merger. The Commission is of the view that the period will provide both Bytes and TCM sufficient time to look for alternative suppliers of the ATMs products in the event of successful foreclosure.

1.4 Cidron Spare 11 S.à r.l (Cidron Spare 11) / LEO Pharma A/S (LEO Pharma)

The Commission has unconditionally approved the proposed merger whereby Cidron Spare 11 intends to acquire LEO Pharma.

Cidron Spare 11, is a special purpose vehicle that is indirectly controlled by Nordic Capital Fund X (“Nordic Capital”). In South Africa, Nordic Capital controls: Acino Healthcare Group (Pty) Ltd (“Acino Healthcare”); Advanz Pharma Services (RSA) (Pty) Ltd (“Advanz RSA”); and Quant Service South Africa (Pty) Ltd.

Cidron Spare 11 is a special purpose vehicle and, as such, does not generate turnover into or from South Africa. Nordic Capital is a leading private equity investor with a focus in Healthcare and Technology & Payments, amongst other sectors. Advanz RSA supplies pharmaceutical products in South Africa. Of relevance to the proposed transaction are the activities of Acino Healthcare, which manufactures and distributes medicines in South Africa, which include Adapalene, a product used for the treatment of acne.

The LEO Pharma Group supplies its products directly into South Africa through an agreement it has entered into with a single customer for the supply of the following dermatological products: Daivobet, Fucidin, Protopic, Skinoren, Travo and Advantan. Of relevance to the proposed transaction is Skinoren which is a product used for the treatment of acne.

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.

1.5 Hapag-Lloyd Aktiengesellschaft (“HL AG”) / Nile Dutch Investments B.V. (“NileDutch”)

The Commission has unconditionally approved the proposed merger whereby HL AG intends to acquire NileDutch.

HL AG, is active in the shipping business as an international container liner shipping company, offering global door-to-door and port-to-port containerised cargo services and additional services such as port services and freight forwarding and clearing services.

NileDutch is engaged in the business of container shipping, and the provision of related services, in particular to and from South Africa and West Africa, East Coast south America and the Far East.

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.

1.6 FPG Foods (Pty) Ltd (FPG Foods) / Stimulus Food Holdings (Pty) Ltd in respect of the 10 KFC Businesses (Stimulus)

The Commission has unconditionally approved the proposed merger whereby FPG Foods intends to acquire 10 KFC businesses (Target Assets) from Stimulus.

FPG Foods, is active as a Quick Service Restaurant (QSR) operating KFC QSR franchises predominantly in the Western Cape and Gauteng Provinces.

The Target Assets are also QSRs operating through the KFC franchise located predominantly in Limpopo and Gauteng Provinces.

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.

1.7 IPP Equipment Properties Limited (IPP Equipment) / The Nndanganeni Colliery, owned by Londani Coal (Pty) Ltd (Londani)

The Commission has unconditionally approved the proposed merger whereby IPP Equipment intends to acquire Nndanganeni Colliery from Londani.

IPP Equipment is controlled by Speedy Colt Holdings Proprietary Limited and Rawsonville Stalle Proprietary Limited, both of which do not control any firm/s other than IPP Equipment.

Through IPP Mining and Materials Handling Proprietary Limited (“IPP Mining”), the Acquiring Group is primarily a diversified junior mining company. IPP Mining's business activities include ownership and operation of a coal mine, the Opgoedehoop Colliery; the provision of contract mining services to third parties, and civil infrastructure and construction services, pollution control services and plant and equipment hire. Only IPP's own coal mining and sales activities are relevant to this proposed transaction. IPP supplies thermal coal to Eskom.

Nndanganeni Colliery is owned by Londani. Nndanganeni Colliery does not control any firm. The Nndanganeni Colliery consists of an opencast mining pit as well as a washing plant, being a dense medium separation (DMS) plant where coal is beneficiated (washed) and prepared for different purposes depending on the end customer. The majority of Nndanganeni Colliery's annual coal production is exported while the balance is sold to the residual domestic market, comprising all domestic customers other than Eskom.

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.

1.8 EQT Fund Management S.à r.l (EFMS) / Cerba Healthcare SAS (Cerba)

The Commission has unconditionally approved the proposed merger whereby EFMS intends to acquire Cerba.

EFMS is a global private equity investment fund headquartered in Sweden with 26 funds invested in 166 portfolio companies primarily in the Nordic region and Germany. In South Africa, EFMS is involved in the provision of medical devices, cloud and business software solutions, distribution of food and chemical ingredients and over the counter and prescription pharmaceutical products.

Cerba is a global laboratory services provider, offering clinical pathology services such as specialty testing (e.g., allergy, toxicology and virology tests), routine testing (e.g., blood, urine) and laboratory tests for clinical trials.

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.

1.9 KPS Capital Partners L. P (KPS) / EMEA Food, Aerosol and Promotional packaging business of Crown Holdings Inc. (Target Business)

The Commission has unconditionally approved the proposed merger whereby KPS intends to acquire Target Business.

KPS is the manager of the KPS Special Situations Funds with investments in manufacturing and industrial companies across a diverse range of industries, including basic materials, branded consumer products, healthcare and luxury products, automotive parts, capital equipment and general manufacturing.

The Target Business is active in the design, manufacture and sale of packaging products and equipment for consumer goods and industrial products. The Target Business does not have any manufacturing presence in South Africa but provides their products into the South African market.

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.

1.10 Seven Bridges Trading (Pty) Ltd (Seven Bridges) / Jock Berlyn Investments (Pty) Ltd (Jock Berlyn)

The Commission has unconditionally approved the proposed merger whereby Seven Bridges intends to acquire Cerba.

Seven Bridges and all its subsidiaries will collectively be referred to as the Acquiring Group. The Acquiring Group is the master franchisor for approximately one hundred and six (106) Caltex retailers and three (3) Astron Energy retailers in the rural Eastern Cape. Its role is to supply fuel and lubricants; quality assure service levels, support with training, business acumen and marketing efforts and ensure compliance to legal and best practice requirements for running a service station.

The proposed transaction involves a share buy-back by existing shareholders from exiting shareholders in the Target Assets.

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.

2 Non-Referrals: The Commission has taken a decision to non-refer (not to prosecute) the following cases:

2.1 Petrus Snyders v Premiere Fishing SA subsidiary of Sekunjalo Investment

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

2.2 Phil West v Nedcare Pharmacy Greenacre Hospital Port Elizabeth

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

2.3 Inter-related Communications Systems CC t/a Melody Business Centre v Redifine Properties Ltd and Exemplor Retail Ltd JV trading as Chris Hani Crossing

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

2.4 Jacqueline Madeleine Beek – MD of Duchess Films v Duchess Production

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

2.5 IDC Architects CC v Nashua Central

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

2.6 Nainesh Seetha v Norchem (Pty) Ltd

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

2.7 Brian Bhalincwadi Magona on behalf of Savela Mining Resources v National Empowerment Fund and Liciatron

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

2.8 Desmond Liebenberg v Net Florist

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

2.9 Werner Nel on behalf of Ziyabuya Service Station (Pty) Ltd v Total South Africa (Pty) Ltd

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

2.10 Bestinver Company South Africa (Pty) Ltd v First Rand Bank Limited

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

2.11 Phillip Phoka Makibinyane v Shell Downstream South Africa

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

2.12 Letsema La Sechaba Community Shield on behalf of Botshabelo Taxi Operators v Itumele Bus Lines and the MEC: Free State Department of Police, Roads and Transport, Premier of Free State

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

2.13 Anonymous v Tongaat

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

2.14 Anonymous v Clara Anna Fontein Lifestyle - Durbanville – Cape Town

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

2.15 Ashwin Jessa on behalf of Starter & Alternator Express v City of Cape Town

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

2.16 City of Cape Town v Blue Whale Patrols CC and Metro City Protection Service

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

2.17 Gerhardus Pretorius v Takealot.com

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

2.18 Faizel Shaik on behalf of Shaik's Logistics v Mr Vishan on behalf of SATL Freight/Logistics

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

2.19 Phale Hadebe v Fleet Africa

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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