REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 561 Pretoria, 23 March / Maart 2012 No. 35166

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GENERAL NOTICES

NOTICE 237 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

FRUIT AND VEG CITY HOLDINGS (PTY) LTD

AND

THE DISTRIBUTION CENTRE OF EVERFRESH WHOLESALE (PTY) LTD AND THE EVERFRESH STORES

CASE NUMBER: 2011JUN0084

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The transaction involved Fruit and Veg City Holdings (Pty) Ltd ("Fruit and Veg") acquiring the distribution centre of Everfresh Wholesale (Pty) Ltd ("Everfresh Wholesale") and establishing control over the Everfresh stores. The Everfresh stores consist of 10 retail stores that were previously operated under the Everfresh banner and that were independently owned from Everfresh Wholesale.

The transaction presented a horizontal dimension.

Horizontally, the merging parties are active in the market for supermarket stores for the selling of food including fresh produce, butchery, bakery, deli and dairy products, with an emphasis on quality and specialist foods to middle and higher income customers on a daily/weekly basis. There is a further horizontal overlap between the activities of the parties in that the respective

retail stores of the parties compete for retail space within a shopping centre in the retail property market.

The Commission identified Hillcrest is an area of concern. The Commission's investigation and analysis showed that within the Hillcrest market, the merged entity has a strong market position with respect to certain product ranges, which include fresh produce. It must be noted that the merged entity holds this market position, despite the fact that the major retail chains also have a presence within this market.

The Commission's investigation also showed that the lease agreement of Everfresh Hillcrest has an exclusivity provision, which in effect limits competitors to enter Heritage Market, being the shopping centre where the Everfresh store is located.
It is the view of the Commission that the market position of the merged entity, together with the exclusivity provision has the effect of substantially lessening competition within this market and that it especially has a detrimental effect of small businesses to become competitive.
In addition to the competition concerns described above, the transaction will also raise significant public interest concerns in that the exclusive lease agreement prohibits the entry of small businesses into Heritage Market, being the shopping centre where the Everfresh store is located.

Accordingly, the Commission approved the transaction subject to the following condition:

(a) *The merged entity shall with immediate effect terminate the exclusivity provision contained in the Everfresh Hillcrest lease agreement, which limits or prohibits the landlord from entering into an agreement of lease with a competitor of the merged entity. A competitor of the merging parties will not only include an established retail chain, but will also include independent butcheries, bakeries or fruit and vegetable traders. This condition shall also apply to the renewal of the discussed lease agreement or any future lease agreement Fruit and Veg or any of its franchisees intends to enter into with the landlord of the Heritage Market shopping centre.*

(b) *The merging parties is required to provide the Commission with proof of cancellation of the exclusivity clause within 20 business days from receiving the clearance certificate in this transaction.*

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 238 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

WISPECO (PTY) LTD

AND

XLINE ALUMINIUM SOLUTIONS (PTY) LTD

2011SEP0241

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Wispeco (Pty) Ltd ("Wispeco") a private company incorporated in terms of the laws of South Africa. Wispeco is active in the upstream market for the extrusion of aluminium profiles, which is *inter alia* used in applications such as windows and doors. It is also active in the downstream stockist market for the distribution of aluminium extrusion profiles.

The target firm is Xline Aluminium Solutions (Pty) Ltd ("Xline") a private company incorporated in terms of the laws of South Africa. Xline is only active in the downstream market for the distribution of aluminium profiles.

The transaction presents a horizontal and vertical dimension.

Vertically, Xline purchased the majority of its aluminium profiles from Wispeco. The Commission is of the view that input and customer foreclosure is unlikely. The Commission's investigation also showed that the proposed transaction is unlikely to facilitate coordination in the upstream market.

In assessing the horizontal effects of the merger transaction the Commission considered the market shares of the parties, barriers to entry, import competition and whether the transaction will result in the removal of an effective competitor. The market shares of Wispeco appear to be high, while that of Xline is considerably lower in the downstream market. The accretion in market share of the merged entity does not raise any significant concerns. The barriers to entry for stockists that merely stock and distribute aluminium profiles are low, while the entry barriers to stockists that have design capabilities are relatively high. Imports appear to play an important role in the aluminium extrusion profile industry and exert a competitive constraint on the activities of the merging parties. It is clear that Xline is a competitor of Wispeco, but cannot be considered to be its closest competitor.

The Commission is therefore of the view that the transaction is unlikely to substantially prevent or lessen competition within the defined markets.

Wispeco agreed that the transaction be approved subject to employment conditions in order to satisfy the concerns of NUMSA. The employment conditions are set out below.

a) *Wispeco will offer alternative employment in the entry level positions (grade G) to all affected permanent employees in any of its subsidiary/divisions;*
b) *That each employee accepts the voluntary position and the concomitant remuneration of the position;*
c) *That the employee accepts a transfer to the location (city) where the vacant position is being offered.*

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 239 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

LE GROUPE LACTALIS

AND

PARMALAT S.P.A

CASE NUMBER: 2011MAY0055

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

This is a hostile takeover in terms of which Le Groupe Lactalis S.A. ("Lactalis") intends to acquire the entire issued share capital of Parmalat S.p.A. ("Parmalat"). The acquiring firm Lactalis, is a joint stock company duly incorporated in accordance with the laws of France. Lactalis controls various subsidiaries that fall within the Lactalis group worldwide but has no presence nor does it control any firm in South Africa.
The target firm, Parmalat, is a company duly incorporated in accordance with the laws of Italy. Parmalat is listed on the Italian Stock Exchange and is the parent company of the Parmalat group of companies..

The transaction was notified with the South African Competition Authorities because Parmalat has a subsidiary in South Africa, Parmalat SA (Pty) Ltd. The transaction was also notified with several competition authorities worldwide.

The merging parties are dairy processors supplying various dairy products. In South Africa, there is a horizontal overlap in the activities of the merging parties in the supply of fluid milk, butter, cheese, buttermilk powder, whole milk powder and skimmed milk powder.

For purposes of this transaction, the Commission has left the relevant market definition open as this does not affect the competition analysis. Further, Lactalis' exports into South Africa are currently very small, in all product categories.

In assessing the effects on competition, the Commission identified the cheese and milk powders as the relevant markets for further investigation of this transaction. This is because Parmalat SA is the leading processor of cheese in South Africa. The milk powders also make up the biggest portion of Lactalis' sales into South Africa currently.

In the cheese sub-market, the proposed merger does not raise competition concerns because there are many small cheese processors, who make cheese on a limited regional scale who are likely to pose some threat to any unilateral behaviour by the merged entity. In relation to milk powder, Lactalis' 2010 turnover generated from milk powder sales in South Africa was also fairly small.

The Commission also contacted the competitors of the merging parties, but none of them raised concerns about the merger. The retailers also did not raise any concerns regarding the merger and indicated that they are not bound by any supply agreements to the processors and so can switch when any of the suppliers are not competitive. The other customers of the merging parties are mostly non-retail customers and distributors that supply to the non-retail segment. These customers also indicated that there are suppliers locally and internationally that they can switch to in the event that the merged entity behaves unilaterally. A concern was however raised that if Parmalat SA buys direct from Lactalis this will affect distributors who currently supply to Parmalat SA. However the Commission's view is that this may in any event eliminate double marginalisation by distributors.

On public interest issues, even though the merging parties have indicated that no job losses are anticipated as a result of this proposed transaction, no supporting strategic documents were submitted for the Commission to verify what the likely impact on employment will be.

The Commission therefore approved the proposed merger on condition that the merged entity does not retrench employees as a result of this merger for a period of 12 months after approval.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 240 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

TEDELEX TRADING (PROPRIETARY) LIMITED

AND

SAMMEG SATELLITE (PROPRIETARY) LIMITED, SAMSAT (CAPE) PROPRIETARY LIMITED AND SAMSAM (KZN) (PROPRIETARY) LIMITED

CASE NO: 2011OCT0300

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Tedelex Trading (Proprietary) Limited ("Tedelex"). Tedelex is a wholly owned subsidiary of Amalgamated Appliance Holdings Limited ("Amalgamated"). Amalgamated is a listed company which is not controlled by a single firm.

The primary target firms are Sammeg Satellite (Proprietary) Limited ("Sammeg"), Samsat (Cape) (Proprietary) Limited ("Samsat Cape") and Samsat (KZN) (Proprietary) Limited ("Samsat KZN"). Samsat Cape and Samsat KZN are wholly owned subsidiaries of Sammeg.

Tedelex is primarily involved in the marketing and supply of household durables such as kettles, toasters, irons, microwaves, electric mixers, heaters and electrical accessories.

The target firms supply television reception equipment and electrical accessories. Television reception equipment refers to terrestrial products (indoor and outdoor aerials as well as related accessories) and satellite products (satellite dishes, decoders and related accessories).

Given the activities of Tedelex and the target businesses the Commission identified a horizontal relationship between the merging parties in that they are both active in the supply of electrical accessories to retailers in South Africa. These products include amongst others plugs, multi plugs and extension cables.

The Commission's investigation revealed that the merged entity would hold a market share of approximately 25% in the electrical accessories supply market and such will continue to face competition from players such Ellies, Voltex, CR Electronics, ISD, Yodota and Connoisseur.

The Commission also found that the customers of the merging parties are generally large national retailers who have the ability to switch suppliers and compare prices whenever they choose to do so.

The Commission received concerns that the approval of this transaction would result in the merged entity having the ability to bundle televisions with satellite products and thereby offering a 5% to 10% discount to its competitors retail customers. The Commission noted that the merging firms do not have market power in the terrestrial or television markets and therefore a bundling strategy is not likely to be feasible and/or profitable. Moreover, the Commission's investigation further revealed that generally bundling of televisions with other products is not done by suppliers such as the merging parties but rather by retailers. In view of the aforesaid, the Commission concluded that this concern is not specific to the merger and the alleged bundling does not appear to be in practise at the level of the merging parties.

Given the relatively low market share of Tedelex, the presence of alternatives and the ability of customers to switch suppliers; the acquisition of Sammeg and its related entities is unlikely to lead to a substantial lessening or prevention of competition in the electrical accessories market.

However, the transaction raises a public interest concern in relation to potential job losses post-merger. The Commission noted that this transaction may result in the retrenchment of possibly sixteen employees of the target firms. This number represents 14% of the total workforce of the target firms. In order to alleviate these concerns, the Commission imposed the condition that no employees of Tedelex or Sammeg should be retrenched for a period of two years after the Approval Date.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 241 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO PROHIBIT THE TRANSACTION INVOLVING:

SENMIN INTERNATIONAL (PROPRIETARY) LIMITED

AND

CELLULOSE DERIVATIVES (PROPRIETARY) LIMITED

CASE NUMBER: 2011OCT0316

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings' in the Competition Commission, that it has prohibited the transaction involving the above-mentioned firms:

The primary acquiring firm is Senmin International (Proprietary) Limited ("Senmin"), a wholly owned subsidiary of Chemical Services Limited ("Chemserve"). Chemserve in turn is controlled by AECI Limited. Senmin is involved in the manufacture, marketing and distribution of mining chemicals. Specifically, its chemicals are used for the froth flotation and tailings treatment segments of the mining sector. The other specialty chemicals in Senmin's portfolio find application in fuel additives, agricultural and tannery industries.
The primary target firm is Cellulose Derivatives (Proprietary) Limited ("Cellulose Derivatives"), a company controlled the by Shannon Trust, a family Trust. Cellulose Derivatives manufactures and sells carboxymethylcellulose ("CMC").
CMC is used in the mining industry, detergent, textile, construction and food industries. However, the CMC that Cellulose Derivatives manufactures is mainly used in platinum extraction by the mining industry. Cellulose Derivatives is the only manufacturer of this CMC (technical mining grade CMC) in South Africa, upstream market. Whilst Senmin is active downstream as one of two major distributors of CMC in South Africa.

The Commission in February 2009 prohibited the acquisition of Cellulose Derivatives by Senmin. This was based on substantial foreclosure concerns that were brought to bear by the transaction.

The parties submit that market conditions have changed since 2009 with greater presence of imports and hence no foreclosure should be evident. The Commission's investigation has found no evidence of increased imports into RSA that are sufficient to constrain Cellulose Derivatives.

The proposed acquisition of Cellulose Derivatives by Senmin raises significant foreclosure concerns as the merged entity will be able to extend its market power in the upstream market to the downstream market. Due to this market power in the upstream market, the merged entity will be in a strong position to foreclose its main rivals downstream or raise their costs.

The parties presented to the Commission potential conditions to address the foreclosure concerns raised by the Commission. The Commission is however of the view that the conditions tendered do not address the real issue of foreclosure as the merged entity can still effectively foreclose competitors.

Most important, it is the view of the Commission that the merger will fundamentally change the structure of the industry. The merged entity, as the monopoly provider of CMC, will be the only source of supply of this critical input for its most significant competitor downstream. The elimination of the merged entity's most significant competitor will result in a substantial lessening of competition. Therefore behavioural remedies will be inadequate to address the fundamental structural problem raised by this acquisition. The Commission therefore finds that the acquisition of Cellulose Derivatives by Senmin is likely to substantially prevent or lessen competition in the affected markets.

Upon filling the merger, the parties submit that they do not anticipate any retrenchment as a result of the proposed acquisition. However, subsequent to the Commission informing the parties that the merger raises significant foreclosure concerns and the proposed conditions do not ameliorate the competition issues particularly the structural change brought to bear by acquisition, they submit that this correspondence prompted Cellulose Derivatives to shut down one of its production lines. The Commission requested supporting information for the claims. The parties however have not made any substantial submissions other than to state that the closure is inevitable should the merger be prohibited. There is thus no credible information before the Commission to support that the firm has to shut down. As such the Commission is of the view that the acquisition of Cellulose Derivatives is unlikely to raise substantial public interest issues.

Based on the competition concerns that arise as a result of the proposed merger, the Commission prohibited the proposed transaction.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 242 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

SYNERGY INCOME FUND LTD

AND

LETTING ENTERPRISE KNOWN AS KWA-MASHU SHOPPING CENTRE HELD BY SIPAN I (PTY) LTD AND SUPERSTRIKE INVESTMENT (PTY) LTD

CASE NUMBER: 2011JUL0147

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Synergy Income Fund Ltd ("Synergy"), a company incorporated in terms of the laws of the Republic of South Africa. Synergy is a variable loan stock company.
The primary target firms are Sipan I (Pty) Ltd ("Sipan") and Superstrike Investments 53 (Pty) Ltd ("Superstrike"), in respect of the property letting enterprise known as Kwa-Mashu Shopping Centre. Sipan and Superstrike are co-owners of Kwa-Mashu Shopping Centre.
In terms of the Sale of Property Agreement, Synergy will acquire from Sipan and Superstrike property letting enterprise known as Kwa-Mashu Shopping Centre, which is categorised a neighbourhood centre comprising of 11 126m^2 of rentable retail space. Synergy will acquire undivided shares in the properties of KwaMashu shopping centre.
There is an overlap in respect of major shopping centres in the activities of the merging parties. The Commission found that there is no geographic overlap, as Synergy does not own retail property in KwaZulu Natal. Accordingly, the merger is unlikely to raise any significant competition concern because neither Synergy nor Synergy investors own any convenience retail shopping centres in Springfield/Umgeni/Durban North area.

The Commission is however concerned that the merger changes Spar's position within the vertical chain. For this reason the Commission is concerned about the exclusivity clause in the lease which prevents their rivals from gaining access to the centre. The conflict of interest inherent in the transaction entrenches the Spar franchisees' position in the mall. This raises public interest concerns especially with regard to independent and small businesses' ability to gain access to the shopping centre. The Commission engaged with the parties regarding this concern and the parties proposed to try their best to negotiate with Spar and the franchisee to remove the exclusivity clause at renewal of the lease.
The Commission therefore approves this merger with the condition that the parties undertake to negotiate with Spar and its franchisee in the utmost good faith to have the exclusivity clause removed at renewal of the lease in the KwaMashu centre.

The Commission therefore approved this merger with the following conditions:

1) *The parties shall negotiate with Spar and its franchisee in the utmost good faith to have the exclusivity clause removed at renewal of the lease in the KwaMashu shopping;*

2) *The parties shall provide a report to the Commission within 30 (thirty) days after entering into a new lease agreement with Spar and its franchisee in the KwaMashu shopping centre setting out in detail the extent to which they complied with the condition.*

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 243 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

JOHNSON AND JOHNSON

AND

SYNTHES INC

CASE NUMBER: 2011NOV0338

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The acquiring firm is Johnson & Johnson ("J&J"), a public company listed in the New York Stock Exchange. J&J's activities globally are divided into three business divisions, namely; Consumer, Pharmaceutical and Medical Devices & Diagnostics ("MDD"). MDD is the relevant division for purposes of this transaction. In South Africa, J&J operates through the following entities:

- Jansens Pharmaceuticals (Pty) Ltd
- Johnson & Johnson Medical (Pty) Ltd (Midrand)
- Johnson & Johnson Medical (Pty) Ltd (Retreat)

The orthopaedic medical devices ("OMDs") business is conducted through Johnson & Johnson Medical (Pty) Ltd, which is comprised of four franchises, namely; DePuy, Cordis, Endo Ethicon and Ethicon.

The primary target firm is Synthes Inc. ("Synthes") a firm incorporated in terms of the laws of the United States. Synthes is the ultimate parent company of a global group of companies active in the supply of medical devices used for surgical fixation, correction and regeneration of the human skeleton and its soft tissues. In South Africa, Synthes operates through Synthes (Pty)

Ltd, and has branches in Cape Town, Durban, Bloemfontein, Port Elizabeth, George and East London.

Following this transaction, Synthes will become a wholly owned subsidiary of J&J.

There is a horizontal overlap in the activities of the parties as they are both active in the sale of OMDs. More specifically, trauma devices, spine devices, shoulder replacement devices, cranio-maxillofacial devices ("CMF"), power tools, and bone graft substitutes ("BGS").

Trauma devices are used to treat bone fractures throughout the upper and lower extremities of the body and pelvis. Spine devices are used to correct various conditions of the spine caused by degenerative disorders, trauma, tumours and deformities. While shoulder replacement devices are used to reconstruct shoulder joints, CMF devices are used for the treatment of facial and skull fractures. Power tools are surgical tools such as drill systems, drill bits, reamers and saws and lastly, BGS form part of the orthopaedic biomaterials used in certain trauma, spine, CMF, and joint reconstruction procedures.

These products are mostly supplied by a number of multinationals from facilities located outside South Africa, and imported for distribution locally. Imports account for about 95% of the OMDs supplied locally. The main users of OMDs are the public and private hospitals.

The Commission concluded that the relevant markets for purposes of this transaction are separate markets for each of the six OMD segments and sub-segments. This is because no overlap exists between any two broad categories to warrant them to form part of one market. Furthermore, the products under each segment are generally not substitutable. The geographic boundaries of these markets are also national. This is based on the fact that prices are negotiated between local customers and international manufacturers, through their local representation, at a national level. Also, the assistance provided to surgeons on using the products, which itself is very important on a competitor's product offering, is done by representatives of the companies locally.

Other players (manufacturers) include Biomet SA, Smith & Nephew, Stryker, Zimmer, Medtronic, Southern Implants, Elite Surgical Supplies and Rothmedical. Distributors include Acumed (Affordable Medical), Extremity Medical (MacroMed), ITS (Werkomed), MiOrtho Medical, Sonoma (SilverMed), Trimed (Stratmed), Tournier (BMG), Auckland Orthopaedics, Litha Medical, Marcus Medical, Selective Surgical, Surgitech, (Arthrex) SA BioMedical, PSG Medical and Globus.

The Commission found that barriers to entry in OMDs can be quite high and that this aspect has many facets, including the minimum capital investment required, the marketing of products to surgeons, brand reputation, research and development costs, as well as access to customers for new entrants. There is also proposed legislation by the Department of Health, for possible registration of all medical devices. The implications of such legislation is that some manufacturers and suppliers who currently do not meet the required standards will incur additional costs to comply.

The Commission also found that there is countervailing power from the hospitals, public and private, who are able to negotiate discounts with the suppliers and drive prices down because of their size and their importance to OMD suppliers. The other countervailing power is from the medical aid schemes which limit the amount of reimbursement for specific procedures.

The customers also indicated that although this transaction will result in an increase in market share for J&J, there will still be countervailing forces such as alternative OMD products, medical funders and doctor's discretion in the market.

The Commission also found that one of the important characteristics of the industry is the rapid rate at which innovation takes place. As a result the average shelf life of many OMDs is between 2 and 3 years. Further, the merging parties do not have any product in their portfolio which does not face competition.

Another important factor is the likely impact of this merger on the cost of healthcare. The Commission found that South Africa is among the countries with the highest cost of healthcare and the prices of OMDs are generally among the highest in the world. It is however worth noting that the price of OMDs to public and private hospitals differs. In general, OMDs are cheaper when sold to public hospitals than to private hospitals, and this is unlikely to change post-merger.

The merger also does not result in the removal of an effective competitor as there will remain a significant competitive constrain in the market post-merger from other more effective players.

The OMDs market is also characterised by the presence of a few established suppliers who have distribution infrastructure in South Africa, however there is also a large number of small to medium sized distributors who compete in niche areas in the OMDs market. This is not likely to

be conducive to coordination. With the merger, the level of concentration also does not change drastically as the merging parties supply products, largely in complementary areas.
None of the customers of the merging parties raised concerns about the merger. Some competitors were however concerned that this merger will have an impact on local manufacturers if the merging parties' products were better priced, or products are dumped in the South African market.

In terms of public interest concerns, the merging parties noted that the nature of the functions performed by employees at the businesses relevant to this transaction in South Africa tend to show that it would not be commercially rational for retrenchments to occur.

However, there are anticipated retrenchments and the Commission and the merging parties have agreed to a condition to limit the number of employees that may be affected, as a result of the merger.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 244 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

SYNERGY INCOME FUND LIMITED

AND

KHUTHALA ALLIANCE (PROPRIETARY) LIMITED

2011OCT0310:

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below.

The primary acquiring firm is Synergy Income Fund Limited ("Synergy"), a company incorporated in terms of the laws of the Republic of South Africa. Synergy is a variable loan stock company. Synergy has acquired retail property assets classified as neighbourhood shopping centres, being the Sediba Plaza located in Hartebeespoort Dam, North West and KwaMashu Shopping Centre in Durban, KwaZulu Natal. In November, Synergy filed an acquisition of seven properties from SA Corporate Real Estate Fund which the Commission is investigating.

Synergy has been established by Capital Land Asset Management ("Fund Manager") through its close association with Spar Group. The shareholders of the Fund Manager are Spar Group (20%), Baleine Capital Pty) Ltd (15%), AM Family Trust (10%), The Brooks Family Trust (25%), Liberty Group Properties (Pty) Ltd (18.75%) and Capital Land Asset Management Employee Trust (11.25%).

The primary target firm is Khuthala Alliance (Pty) Ltd ("Khuthala"), a private company incorporated in terms of the laws of the Republic of South Africa. The transferring firm is the letting enterprise, King Senzangakhona Shopping Centre, situated in Ulundi, KwaZulu Natal and owned by Khuthala.

In terms of the Letting Enterprise Purchase Agreement, Synergy will acquire the letting enterprise from Khuthala, comprising the fixed and moveable assets, goodwill as well as rights and obligations of Khuthala. Pursuant to the implementation of the proposed transaction, Synergy will have sole control over the business of Khuthala.

Synergy owns rentable retail properties classified as neighbourhood centres in Greater Hartebeespoort Dam, North West and in KwaMashu, being KwaMashu Shopping Centre and Sediba Plaza. Khuthala owns the King Senzangakhona Shopping Centre, a community centre in Ulundi, KwaZulu Natal. The distance between KwaMashu and Ulundi is approximately 180km; this means that the two shopping centres are not able to pose a competitive constraint on each other. These are the only two centres owned by the merging parties in KwaZulu Natal. The Commission found that Synergy does not own any community centre in Ulundi, KwaZulu Natal. Accordingly, the merger is unlikely to lead to a substantial prevention or lessening of competition in the market as there is no geographic overlap between the activities of the merging entities.

The Commission found that there is a public interest concern arising from the proposed transaction around an exclusivity clause found in the Lease Agreement between Spar and the landlord and the Shareholders Agreement. The exclusivity clause has the effect of preventing small businesses from competing effectively in the shopping centre. Further the shareholders agreement allows the Spar Group as part of the Fund Manager which will manage the centre, post-merger, to appoint a director. The Commission is of the view that the change in Spar's position within the vertical chain will change the competitive conditions within King Senzangakhona Shopping Centre. The Spar franchisee post-merger will have an advantageous position within the King Senzangakhona Shopping Centre; this means they will face no competition for their position within the shopping centre when the lease expires as the strategy employed by Synergy ensures that the Spar franchisee will remain the anchor tenant at their shopping centres.

The exclusivity clause on the other hand ensures that the Spar franchisee succeeds in excluding its rivals from the centre. Further, the Spar franchisee will moves from being a tenant who would have had to bid to maintain his/her position within the centre against other retailers when the lease currently in place comes to an end, to being the sole retailer with a guaranteed position within King Senzangakhona Shopping Centre. For this reason the Commission is concerned about the exclusivity clause in the lease which prevents small businesses from gaining access to the centre.

The Commission engaged with the parties regarding this concern and the parties proposed to try their best to negotiate with Spar and the franchisee to remove the clause on renewal of the lease agreement.The Commission initially considered this proposed condition, but is however concerned with the renewal date as it occurs at a later stage and is unlikely to fully address the public interest concern that arises as a result of the proposed transaction. To this end the Commission proposed that the merging parties remove the exclusivity clause that is the cause of the public interest concern and this be made a condition of the approval of the proposed transaction, which the merging parties opposed. However since these are significant concerns the Commission approved the transaction subject to the following conditions:

Conditions to the approval of the merger

1. The merging parties must have the exclusivity clause in the lease agreement removed within two (2) months of the approval date of the proposed transaction.
2. The Spar Group shall not appoint a director on the board of the Fund Manager.

Monitoring of compliance with the Conditions

3. The merging parties shall provide proof of the removal of the exclusivity clause to the Commission within two (2) months after the approval date and at the same time provide an amended lease agreement in relation to the King Senzangakhona Shopping Centre to the Commission.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 245 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

SENWES LIMITED

AND

BUNGE SENWES AFRICA (PTY) LIMITED

CASE NUMBER: 2011JUN0080

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction Involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firms are Senwes Limited ("Senwes") and Bunge S.A. ("Bunge"). Senwes and Bunge have concluded a joint venture agreement in terms of which a separate legal entity, Bunge Senwes Africa Proprietary Limited ("Bunge Senwes") has been formed. Senwes is an agri-business whose majority shareholders are Senwesbel Limited ("Senwesbel") (41.1%) and The Royal Bafokeng Consortium ("RBC") (34.7%). Senwesbel's shareholders are predominantly the producers and the company is the de facto controlling shareholder of Senwes.

On the other hand Bunge is controlled by Koninklijke Bunge BV (NL) and is part of a multinational agro-foods and commodities trading business which is registered in Switzerland. Bunge is controlled by Bunge Limited (Europe) which operates hundreds of agribusiness facilities around the world including grain elevators, oilseed processing plants, port terminals and marketing offices. Notably, Bunge does not have any operational presence in South Africa and is not involved in the direct trading of grain, oilseeds and by-products with millers and processors in South Africa.

The primary acquiring firm is Bunge Senwes Africa (Proprietary) Limited ("Bunge Senwes"), which is a joint venture that has recently been formed by virtue of the joint venture agreement between Bunge and Senwes. Either party will be controlling 50% of the joint venture.

As both parties are agri-businesses involved in the trading of grain and oilseeds, there is an overlap in terms of the activities of the parties. However, Bunge has no operations in South Africa as it only operates in global markets, particularly in South, North America and Europe whilst Senwes does not have any significant global trading operations as it has only sold very negligible volumes of grain in international markets. As such, there is no direct overlap in terms of the geographic markets in which the partners to the joint venture operate.

For the purposes of analysing the proposed transaction, the Commission defined the relevant market as that of grain and oilseed trading in South Africa. In particular, the grain and oilseeds included in the joint venture are wheat, yellow maize and soybean. In this market, only Senwes is active in South Africa as Bunge has no operational presence, hence, there is no direct overlap between the joint venture partners. However, Bunge has sold some grains and oilseeds from international markets that have found destination in South Africa. The Commission thus analysed the proposed transaction in the context of such trades by Bunge, to the extent that they could play any influence in the South African market.

Even if Bunge has sold grains and oilseeds that have found destination in South Africa, these only comprise only a very small proportion of the South African market and would unlikely confer any market power to the joint venture. Senwes' market share is less than 10% in any of the three grains and oilseed concerned in South Africa. Thus, there are no major competition concerns of a horizontal nature arising from the joint venture, chiefly because there is no direct overlap. As Bunge has sold some grains and oilseed that have found destination in South Africa, there is however a vertical dimension arising from the transaction. Still, the volumes traded this way are relatively small to warrant major competition concerns.

For instance, the wheat originated from Bunge only comprise 0.46% for 2010 and 10.89% in 2011 (4 months) of the total South African demand. As such, it is evident that Bunge is not a significant supplier of wheat in South Africa, although it is relatively sizeable in soybean meal (a soybean by-product for animal feeds) wherein the market share is estimated at 14.07% for 2010 and 21.8% (4 months) for 2011. Nevertheless, there are no major quasi-input or output foreclosure concerns arising. There are several alternative supplier options for local trading offices of global trading companies such as Cargill, Noble, Louis Dreyfus, Seaboard and Atlas will remain unchanged as they can source products from their global operations and are not reliant on Bunge for supply. Even if Bunge is a leading soybean trader globally, there are

several soybean originating traders such as Cargill, Louis Dreyfus, Noble, and Atlas from whom local traders can source soybean from. Senwes does not directly source any grain or oilseed from international markets.

However, there is a potential competitive concern arising from the overall relationship between related markets in which the joint venture partners are involved. Senwes is the leading grain and oilseed storage operator in South Africa, and is linking up with one of the leading grain traders worldwide. Hence, there are potential issues that could arise from the combination of these joint venture partners who have significant positions in the related markets of storage and trading of grain and oilseed. In particular, Senwes may leverage its position in the storage market into the trading market.

The Commission considered this issue and noted that, Senwes' incentives to engage in exclusionary conduct to the detriment of its rivals (traders) increases by virtue of this joint venture. In particular, Senwes will be incentivised to exclude rival traders from its storage facilities, particularly in Senweś catchment area where it enjoys a dominant position in storage. Such exclusionary conduct could be in the form of raising rival costs, refusal or frustrating access to storage or margin squeeze strategies. Senwes has already been the subject of prosecution by the Commission on such conduct, particularly margin squeeze, the case of which is still the subject of litigation. Whilst Senwes has submitted that it has since ceased engaging in the margin squeeze conduct, there is no existing mechanism to prevent such conduct from occurring in future. Further, its ability to engage in such strategies still exists.

Taken as a whole, it is the Commission view that the proposed transaction is unlikely to lead to a significant lessening of competition in the grain and oilseed trading market, however considering the existing litigation between the Commission and Senwes relating to the differential pricing imposed by Senwes to its trading arm and its competitors for storage services, the Commission found that it would be appropriate to impose conditions on Senwes obliging them to provide the same terms and conditions to its customers and competitors as it provides to the joint venture.

The conditions imposed are:

1. Senwes Limited ("Senwes") shall ensure that all services which are offered for purposes of the storage and handling of grain and oilseed ("storage services") to Bunge Senwes Africa (Pty) Ltd ("Bunge Senwes Africa") are made available on the same terms and conditions, including but not limited to storage and handling costs, to all other storage services customers, taking into consideration that different storage and handling options

may be offered by Senwes, based, inter alia, on volume of grain stored, duration or time of storage or location of the relevant silo, to all clients (including Bunge Senwes Africa). These terms and conditions shall be reduced to writing and must be available to all storage services customers.

2. Paragraph 1 above of these conditions shall remain in force for as long as the joint venture agreement ("JV Agreement") between Senwes Limited and Bunge Senwes Africa is in existence.

3. Senwes shall monitor that it is in compliance with the above condition. In the event that the Commission requests Senwes to confirm that it is compliance with the condition, Senwes shall provide written confirmation to the Commission to this effect.

4. Senwes shall notify its clients in its next circular dealing with its storage and handling tariffs that the Bunge Senwes Africa joint venture was approved subject to the above condition.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 246 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

MARSH (PROPRIETARY) LIMITED AND MARSH HOLDINGS (PROPRIETARY) LIMITED

AND

THE BUSINESS OF ALEXANDER FORBES RISKS SERVICES (PROPRIETARY) LIMITED, ALEXANDER FORBES COMPENSATION TECHNOLOGIES ADMINISTRATION (PROPRIETARY) LIMITED AND ALEXANDER FORBES I-CONNECT (PROPRIETARY) LIMITED

2011SEP0267

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firms are Marsh (Pty) Ltd ("Marsh Local") and Marsh Holdings (Pty) Ltd ("Marsh Holdings"). The majority of shares in Marsh Holdings are owned by Marsh incorporated ("Marsh Inc."), a company incorporated in terms of the laws of United States of America. The remaining shares in Marsh Holdings are owned by Marsh Associates (Pty) Ltd ("Marsh Associates"). Marsh Associates and Marsh Inc. are wholly owned subsidiaries of Marsh & McLennan Companies Inc. ("MMC"), which is a company incorporated in terms the laws of United States of America. Marsh Local is owned by Marsh Holdings and the remaining shares are held by Parmtro Investments No. 79 (South Africa) (Pty) Ltd.
MMC in South Africa through Marsh Local and Marsh Holdings, collectively referred to as Marsh, acts as an intermediary between insurance companies and corporate clients seeking appropriate short term insurance relating to property and casualty risks.

The primary target firms are the corporate and commercial short term insurance brokerage business conducted by Alexander Forbes Risk (Pty) Ltd ("AFRS") in South Africa; Alexander Forbes Technologies Administration (Pty) Ltd ("AFCT Administration"); and Alexander Forbes i-Connect (Pty) Ltd ("i-Connect"), hereinafter referred to as the Primary Target Firms. The primary target firms are wholly owned by Alexander Forbes Risk and Insurance Services (Pty) Ltd, which is a wholly owned subsidiary of Alexander Forbes Limited.

AFRS is involved in the provision of short term insurance brokerage services in terms of which it acts as an intermediary between insurance companies and customers seeking insurance. AFCT administration assists employers to comply with the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as well as its regulations and procedures. I-Connect perform policy administration services on behalf of insurers with whom it has agreement.

The Commission found that there is a horizontal overlap in the activities of the merging parties in the market for the provision of short term corporate insurance brokerage services. However, the Commission finds that the proposed transaction is unlikely to substantially prevent or lessen competition in the market for the provision of short-term corporate insurance brokerage services. This is due to fact that there are alternative international players in the market that compete with the merging parties such as Willis and JLT. The Commission also finds that barriers to entry in the market are low for international players. Further, customers of the merging parties are big corporate clients and have significant countervailing power, as they are able to switch between short-term corporate brokers within a short space of time without incurring cost.

The public interest concerns arising from the proposed merger relates to employment. The parties submit that the proposed merger is likely to result in job losses of employees in the junior and middle management positions of the merged entity. These employees are skilled and the employees under middle management are qualified whilst the majority of employees under junior management have matric.

The Commission is of the view that the number of employees that are likely to lose jobs as a result the proposed transaction are not of considerable magnitude. Notwithstanding the foregoing, the Commission adopted a conservative approach and investigated whether the merging parties followed rational investigation as set out in the ***Metropolitan decision*** and whether there are short term prospects of re-employment of the affected employees. The Commission found that the merging parties have in material parts met the rational investigation set out in the ***Metropolitan decision***.

With respect to the short term prospects of re-employment of the affected employees, the Commission did not get a clear indication from the market participants whether employees with such skills (IT, finance and claims) are likely to be absorbed in the market within a short space of time taking into account of the fact that there have been job losses in the insurance sector in the past two years although the Commission has learnt from the competitors of the merging parties that there is a shortage of skills in claims and IT in the insurance sector.

Notwithstanding the fact that the job losses arising from the proposed merger are not of considerable magnitude, the merging parties have undertaken to limit the job losses to junior and middle management employees earning a salary of above R250 000 per annum. However, there are some employees in junior management who do not have a post-matric qualification and their short term prospects of re-employment might be limited although skilled.

Therefore, the Commission approved the proposed merger subject to the following conditions, which the merging parties have also agreed to.

Conditions

1.1 Alexander Forbes Risk Services (Proprietary) Limited, Alexander Forbes Compensation Technologies Administration (Proprietary) Limited, Alexander Forbes i-Connect (Proprietary) Limited, Marsh Holdings (Proprietary) Limited and Marsh (Proprietary) Limited (collectively the "**Merging Parties**"), and their respective direct and indirect subsidiaries shall, subject to the consultation requirements of section 189 of the Labour Relations Act, 1995, as amended ("**LRA**"), ensure that in South Africa, as a result of the merger, there are –

1.1.1 no retrenchments of employees earning less than R250 000 per annum (on the basis of the relevant employees' total cost to company as at 30 November 2011);

1.1.2 retrenchments of no more than 4 (four) employees in the junior management category earning between R250,000 and R570,500 per annum (on the basis of the relevant employees' total cost to company as at 30 November 2011);

1.1.3 retrenchments of no more than 30 (thirty) employees in the middle management category earning between R250 000 and R1,452,420 per annum (on the basis of the relevant employees' total cost to company as at 30 November 2011); and

1.1.4 no retrenchments of employees in the junior management category referred to in paragraph 1.1.2 that have no qualifications other than a matric (grade 12) qualification.

1.2 For the sake of clarity, retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; and (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA.

1.3 These Conditions will apply for a period of 2 years commencing from the date of merger clearance.

1.4 Any employee who believes that his/her employment with the Merging Parties has been terminated in contravention of these Conditions may approach the Commission with his or her complaint.

1.5 The Merging Parties shall circulate a copy of these Conditions to their employees within 7 days of the merger clearance and shall provide the Commission with proof thereof.

1.6 The Merging Parties will provide a report to the Commission on the following respective dates: 30 May 2012, 30 November 2012, 30 May 2013 and 30 November 2013 reflecting the retrenchments effected within the previous 6 month period as a result of the merger.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 247 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO PROHIBIT THE TRANSACTION INVOLVING:

PAARL MEDIA (PROPRIETARY) LIMITED

AND

PRIMEDIA (PROPRIETARY) LIMITED

CASE NUMBER: 2010NOV5443

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings' in the Competition Commission, that it has prohibited the transaction involving the above-mentioned firms:

The primary acquiring firm is Paarl Media (Proprietary) Limited ("Paarl"). Paarl is directly controlled by Paarl Media Holdings which in turn is controlled by Paarl Media Group. The Paarl Media Group is jointly controlled by Media 24 Limited ("Media 24") and Lambert Phillips Retief ("Retief") in terms of a Management Agreement. Media 24 is ultimately controlled by Naspers Limited, which is a multinational media group that is listed on the JSE Limited.

Paarl is predominantly a commercial printing operation with several specialised printing plants in South Africa that provide a comprehensive range of printing services. These services include printing solutions for newspapers, magazines, retail inserts and commercial material. In addition to this, Paarl also distributes advertising materials directly to consumers at individual residences and businesses.

The primary target firm is Primedia (Proprietary) Limited ("Primedia"). The transferred firm is however Primedia@Home, which is the printed advertisements distribution business of Primedia. Primedia is involved in four broad categories spanning broadcasting, advertising, marketing and promotion, entertainment, sports advertising, sponsorships and promotions,

digital and publishing. Of particular relevance to this transaction are the advertising, marketing and promotion of third party (clients) business activities.

In terms of the transaction, Paarl acquired the printed advertisements distribution business of the Primedia@Home. Upon completion of the transaction, Paarl wholly controlled the printed advertisements distribution business of Primedia@Home and was integrated into Shopper's Friend, the advertising jacket business of Paarl.

The transaction was initially notified to the Competition Commission ("Commission") as a small merger in November 2010 and was subsequently unconditionally approved by the Commission in January 2011. However Caxton and CTP Publishers and Printers Limited ("Caxton"), a competitor to Paarl particularly in printing, brought an application before the Competition Tribunal ("Tribunal") to review and set aside the Commission's decision to unconditionally approve the merger. The transaction has since been implemented and Primedia@Home was integrated into an advertising distribution business of Paarl called Shopper's Friend. On 25 July 2011, the Tribunal set aside the Commission's decision to unconditionally approve the merger and the matter was remitted back to the Commission for reconsideration. The reason for the judgement was primarily that the Commission had not properly considered the information before it and could possibly have arrived at different conclusions.

The Commission has conducted a new investigation into the transaction. This current investigation has revealed several material facts that are different from the Commission's original analysis. These differences mainly relate to the relevant product market and consequently, the analysis that flows from the defined relevant product market. Firstly, in relation to the relevant product market, the original investigation concluded that the product market was markedly wider than the current investigation. The reason for the different outcome primarily relates to supply-substitutability between different modes of distributing advertising leaflets. In particular, the original investigation concluded that distribution of leaflets through community newspapers was directly substitutable for distribution via knock and drop, hence, comprised the same product market. The current investigation has concluded that the two are different product markets, and that the relevant market is that of knock and drop distribution only. Of particular importance is that distribution of advertising leaflets through community newspapers does not effectively constrain distribution via knock and drop. This conclusion was arrived at using both the information that was available at the time of the original investigation as well as newly sourced information. The Tribunal's reasons for decision also appear to suggest this demarcation between these markets.

Secondly, the original investigation also suggested entry into this narrower market of knock and drop is relatively easy, timely, and sufficient to constrain any potential exercise of market power by the merged entity. However, the current findings arising from the investigation suggest otherwise, that entry is not easy, not likely to be timely, and insufficient to constrain the parties in exercising market power in the national market for knock and drop distribution.

The merger creates a direct overlap between Primedia@Home and On-the-Dot (a Media24 subsidiary). The two are the largest players in knock and drop distribution in the country. The parties combined markets shares in this narrower knock and drop distribution market is approximately 79% instead of the 31% in a wider market arrived at in the initial investigation. The two remaining national knock and drop competitors namely P le Grange and Vibrant Direct have market shares of approximately 13% and 2% respectively. In essence, the merger resulted in the removal of an effective competitor as Primedia@Home was On-the-Dot's closest and most effective competitor. It is the Commission's view that the merged entity has the ability to exercise market power in the knock and drop distribution market by virtue of this merger and is able to unilaterally increase prices. There have been some concerns to this effect from several customers such as Shoprite and Lewis as well as competitors such as P le Grange, Vibrant Direct, Caxton (a competitor in printing), and smaller regional operators such as Quickfeet.

According to the Tribunal, the initial investigation also did not properly consider the historical and vertical aspects relevant to this transaction. More specifically, there are historical issues in the market relating to a price war between the merging parties. Over a period of time, Primedia@Home had been involved in a price war with On-the-Dot. Various strategy documents suggested On-the-Dot was undercutting its rivals, particularly Primedia@Home in order to weaken its closest and most effective competitor. Some third parties have suggested that the transaction could have been implemented to remove an effective competitor, Primedia@Home. It is the Commission's view that this fierce competition between the merging parties suggests that the merger results in the removal of an effective competitor.

Further, the parties' counterfactual that Primedia@Home would have exited the market had it not been acquired by Paarl is not supported by evidence. In fact, there is a litany of evidence which suggest there were several viable options that Primedia@Home was considering before it eventually settled for Paarl, which had offered a significant competition premium. Therefore, the counterfactual by the parties that Primedia@Home would exit the market if it was not acquired by Paarl cannot stand.

In relation to vertical effects, there are several concerns that have been raised in the current investigation pertaining to foreclosure of rivals through bundling of printing of leaflets together with the distribution thereof. Paarl has a leading position in printing, particularly heatset printing with a market share of approximately 52%, and 38% in coldset printing. By virtue of the transaction, the merged entity is in a position to leverage its position (monopoly position) in distribution of leaflets into the printing of leaflets market, where the margins are higher than in distribution. This could be achieved by either offering a bundle at discounted prices or inducing distribution customers to use the merging parties printing facilities. Essentially, none of the merging parties' rivals in either printing or distribution are able to mimic this bundle, hence, a bundling strategy could effectively be employed to weaken competition in both printing and distribution. Several firms involved in both distribution and printing have raised concerns in this regard. It is the Commission's view that such a bundling strategy could effectively foreclose parties' printing and distribution rivals, to the detriment of competition in these markets.

Taken as a whole, the merger results in a significant lessening of competition in the market for the distribution of knock and drop leaflets. The parties submitted some efficiency arguments, which efficiencies were not merger specific as they could still have been achieved absent the merger. In any event, with benefit of hindsight, the claimed efficiencies have not come to pass since Shopper's Friend fortunes have not improved over the time in which the Shopper's Friend business was integrated with Primedia@Home. Therefore, the efficiencies forwarded by the parties are insufficient to outweigh the anticompetitive effects of the transaction.

The parties were invited to propose remedies to alleviate the anti-competitive effect of the transaction. It was the parties' position that there were no remedies required since it is their position that there are no anti-competitive effects arising from the transaction.

On the basis of the investigation findings, the Commission prohibited the transaction.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 248 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

BIDSERV INDUSTRIAL PRODUCTS (PROPRIETARY) LIMITED T/A G FOX & CO ("G FOX")

AND

ALSAFE (PROPRIETARY) LIMITED

2011SEP0250:

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The acquiring firm is Bidserv Industrial Products (Proprietary) Limited trading as G Fox & Co ("G Fox"); which has its principal business address in Germiston, Gauteng Province. G fox is a wholly owned subsidiary of the Bidvest Group Limited ("Bidvest").

The target firm is Alsafe (Proprietary) Limited ("Alsafe"), a private company having its principal business address in City Deep, Johannesburg. Alsafe has offices in Cape Town, Johannesburg, Richards Bay, Durban, Port Elizabeth, Rustenburg, Hammersdale and Worcester.

There is a horizontal relationship between the merging parties in that both G Fox and Alsafe are retailers/distributors of various types of Personal Protective Equipment ("PPE") including amongst others footwear, above the head protection (including eye wear, head and face protection, ear protection and respiratory protection), work wear, freezer wear and rainwear, and hand protection. Apart from supplying PPE, G Fox also supplies cleaning chemicals and paper products however Alsafe does not supply these products.

The Commission's investigation revealed that PPE market is very fragmented. Based on a conservative total PPE market estimate of approximately R1,2 billion, G Fox will hold post-merger market share of about 43% with an accretion of 11%. Other players active in the distribution of PPE are Pienaar Brothers, Zenzeleni, Industrial Safety, MSA, Sweettor, Durban Overall to name but a few.

The Commission's investigation revealed that the customers of the merging parties are large corporations in the mining, retail, construction and agricultural sectors amongst others; who indicated the ability to switch suppliers of PPE should prices increase.

The transaction however raised public interest concerns relating to potential job losses and the impact on a particular industry specifically the clothing manufacturing industry.

With respect to the impact on a particular sector, the Commission received a concern that the acquisition of Alsafe by G Fox will have potential adverse impact on the local clothing manufacturing industry due to Alsafe being the only big retailer who sources from local manufacturers who are not vertically integrated. The Commission's investigation revealed that Alsafe is not only or the biggest independent distributor of PPE. Other PPE distributors who do not own their own protective clothing manufacturing facilities include the likes of Pienaar Brothers, Industrial Safety, Tamm Industrial, Fogel Distributors, The Kit, Simon Workwear and Javeline to list but a few. In addition, other local manufacturers of protective such as Zenzeleni, Integral Safety and Santon Workwear supply directly to end-customers. The Commission is therefore of the view that there is nothing that precludes local manufacturers of protective clothing from directly trading with end-customers and other distributors such as Pienaar Brothers, Industrial Safety, Tamm Industrial, Fogel Distributors, The Kit, Simon Workwar.

In relation to the impact of the transaction on employment; the acquisition of Alsafe compromise the employment of at least 11 (eleven) employees due to a duplication of functions. Ten (10) of the employees are Alsafe employees whilst one is a G Fox employee. This represents about 8% of Alsafe's total employees. The merging parties' indicated that they have frozen posts in order to mitigate the retrenchments and that through natural attrition the above number may reduce.

In order to alleviate the impact of the retrenchments, the parties undertake to:

- Retrench no more than 11 employees;
- Section 189 of the Labour Relations Act 66 of 1995 not to be compromised at the outset of the retrenchment process and when the retrenchments take place;

- Within its reasonable means endeavor to ensure that the retrenched employees get first preference for re-employment within the Bidserv Industrial group of companies where such employee may qualify for a vacant post within one year of such employee being retrenched as a result of this merger; and
- An amount of no less than R10 000 be made available to re-skill or retrain the employees that are retrenched as a result of this transaction.

In conclusion, the Commission finds that the acquisition of Alsafe does not raise significant competition concerns in light of the numerous players active in the PPE distribution market, the presence of new entrant and the ability of customers to switch suppliers. The public interest concerns relating to the potential retrenchment of 11 employees are ameliorated by the condition the parties agreed to.

The Commission therefore approved the acquisition of Alsafe by G Fox subject to the conditions that address the retrenchment concerns.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 249 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO PROHIBIT THE TRANSACTION INVOLVING:

SUNSET BAY TRADING 368 (PROPRIETARY) LIMITED

AND

JOBLING INVESTMENTS (PROPRIETARY) LIMITED

2011NOV0343:

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings' in the Competition Commission, that it has prohibited the transaction involving the above-mentioned firms:

The primary acquiring firm is Sunset Bay Trading 368 (Pty) Ltd ("Sunset Bay"). Sunset Bay is a stockist and distributor of non-ferrous metals and primarily conducts business in the Gauteng region. Sunset Bay also controls Copalcor (Pty) Ltd ("Copalcor") which is active in the manufacturing of copper (including rolled copper busbar), brass and alloyed-bases semi-finished products and turnkey busbar solutions. Copalcor is also a distributor of non-ferrous metals and semi-finished products through its stockists operation Copalcor Trading.

The primary target firm is Jobling Investments (Pty) Ltd ("Jobling"). Jobling is the holding company of Maksal Tubes (Pty) Ltd ("Maksal"). Maksal is primarily a manufacturer of solid copper extrusions, extruded copper busbar and copper tubing.

As noted above, Maksal is a manufacturer of solid copper extrusions, while Copalcor manufactures rolled copper busbar. The Commission has defined separate markets for solid copper extrusions and rolled copper busbar. It is therefore the view of the Commission that there is no horizontal overlap in the upstream market for the manufacturing of solid copper extrusions.

Maksal supplies Sunset Bay and Copalcor Trading with solid copper extrusions and extruded copper busbar, which, in turn, are distributed by Sunset Bay and Copalcor Trading to original equipment manufacturers ("OEMs"). The proposed transaction therefore has a vertical dimension.

Maksal also supplies solid copper extrusions and extruded copper busbar directly to OEMs. The transaction therefore also presents a horizontal dimension in that both the merging parties supply extruded copper busbar and solid copper extrusions to OEMs. It should be noted that Maksal and Sunset Bay/Copalcor Trading operate at different levels of the value chain. However, the Commission's investigation has shown that Maksal, Sunset Bay and Copalcor Trading sell the same product and compete for the same customer and should be considered, at the very least, to be potential competitors.

The Commission's market share calculations show that the merged entity will have a very strong market position at the downstream level for the distribution of solid copper extrusions and extruded copper busbar.

The Commission assessed the barriers to entry to the downstream market for the distribution of solid copper extrusions and extruded copper busbar and concluded that such barriers are likely to be very high. The Commission is also of the view that the proposed transaction and vertical integration of the merging parties is likely to increase barriers to entry. The upstream manufacturing market and downstream distribution market are highly concentrated. A potential entrant (and existing competitor) to the distribution market is likely to be dependent on the merged entity for product supply. The merged entity will be able to self-deal and distribute the product to its customers. The proposed transaction may therefore increase the difficulty of a potential entrant to find a reliable source of supply and is likely to increase the barriers to entry in the market for the distribution of extruded copper busbar.

The Commission is of the view that customers of the merging parties have very limited countervailing power.

Although there are some imports of extruded copper busbar, these are negligible compared to local sales. As such, the Commission is of the view that imports are unlikely to constrain the merged entity from exercising market power in the local market.

The proposed transaction is likely to result in the merged entity being able to exercise market power and unilaterally increase prices, reduce output or the quality of the extruded copper busbar. In addition, the merger is likely to lead to coordinated effects, as the affected markets are concentrated and transparent (in so far pricing is concerned), which transparency is further enhanced by the vertical integration resulting from the merger.

Due to the vertical integration resulting from the merger, the merged entity has both the ability and the incentive to foreclose current and potential competitors. The vertical integration of the merging parties is also likely to result in the entrenchment of the barriers to entry at the distribution level. This will make it increasingly difficult for potential entrants to enter the market and for existing competitors to continue to trade. Therefore, the proposed transaction is likely to raise foreclosure concerns.

From both the horizontal and vertical effects, the Commission concludes that the proposed transaction is likely to lead to a substantial prevention or lessening of competition in the affected markets.

The merging parties provided the Commission with certain efficiencies arising from the proposed transaction. The merging parties submit that production efficiencies will arise. The Commission is of the view that the claimed efficiencies are not merger specific, cannot be verified by the merging parties and there is no evidence to suggest that the claimed efficiencies will be passed on to customers. In the circumstances, there are no credible efficiencies presented that could outweigh the substantial prevention or lessening of competition in the affected markets.

The merging parties have also claimed that the proposed transaction can be justified on public interest grounds. In support of this claim the merging parties have indicated that the proposed transaction is likely to lead to employment creation.

There are currently a high number of South Africans that are unemployed and the creation of additional employment opportunities by Sunset Bay is therefore an important consideration by the Commission. The Commission is, however, of the view that the proposed transaction cannot be justified on the public interest grounds presented, as they are not substantial.

Based on the above, the Commission prohibited the proposed merger.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 250 OF 2012

COMPETITION COMMISSION

NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:

THE INDUSTRIAL DEVELOPMENT CORPORATION OF SOUTH AFRICA LIMITED

AND

EERSTE FLAMBEAU HUUR (PROPRIETARY) LIMITED

2011NOV0357

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is the Industrial Development Corporation of South Africa ("IDC"), a public firm incorporated in terms of the laws of the Republic of South Africa. The IDC is wholly owned by the South African government under the supervision of the Economic Development Department. The IDC has interests in various companies in different sectors of the economy, including *inter alia* chemicals, tourism, agriculture, financial services and textile and clothing.

The primary target firm is Eerste Flambeau Huur (Pty) Ltd ("Eerste Flambeau "), a firm incorporated in terms of the laws of the Republic of South Africa. Eerste Flambeau is a holding company which controls Tweede Flambeau (Pty) Ltd and Belgo Textile (Pty) Ltd and ultimately controls the Colibri Group of companies. The Colibri Group is involved in the full spectrum of terry towelling manufacturing, importing, exporting and distribution, all under the Colibri brand, with factories in Eastern Cape and Western Cape.

The activities of the merging parties overlap in the market for the retail of terry towelling in the Western Cape and Eastern Cape region. There is also a vertical dimension to the transaction as Colibri acquires inputs from Prilla.
The Commission identified an upstream market for the manufacture and supply of yarn. Downstream to this market are two markets which complete the value chain, namely: the midstream market for the manufacturing of terry towelling products and the downstream market for the retail of terry towelling products. For the purpose of this assessment the Commission defined a geographic market for manufacturing of yarn, manufacturing of terry towelling and retail of terry towelling as national.

The Commission's investigation revealed that Prilla, which manufactures and supplies yarn to downstream competitors, is the only manufacturer of good quality yarn in South Africa currently. Colibri's market share in the downstream market is estimated to be 20% while Prilla's market share in the upstream market is estimated to be 27%. In the downstream market for retail of terry towelling, the IDC controls Sheraton which competes with Colibri through their factory shops, and the post-merger market share is estimated to be less than 1% in this market.

The proposed transaction also gives rise to the vertical integration of Prilla and Colibri's activities. Prilla is also the only company in South Africa that produces good quality yarn. As such the Commission's investigation sought to find out if there would be possible foreclosure concerns, as a result of the proposed merger.

The Commission's investigation revealed that the IDC, through Prilla, might have the incentive to foreclose Colibri's competitors in a bid to revive Colibri's business activities. However, the Commission is of the view that customer foreclosure is not a concern since Colibri has 20% of the manufacturing market. Therefore, should rivals of Prilla be foreclosed from supplying Colibri's yarn requirements, these suppliers would still have access to other terry towelling manufacturers, which comprise the remaining 80% of the relevant market.

The Commission also found that there might be possible information exchange between Colibri and Prilla post merger. A competitor of Colibri (customer of Prilla) indicated that over the years they have been in partnership with Prilla and they have developed new yarn technology together. As such the current transaction would imply that Colibri, which is a major competitor, might benefit from new technology developed by its major competitor.

The competitors of Colibri also indicated that the proposed merger will result in unfair competition between themselves and Colibri. One Competitor indicated that post merger; IDC will be their financier, supplier of yarn and then competitor in manufacturing of terry towelling. Other competitors supported the proposed transaction stating that if the transaction is not approved, then two local manufacturers will dominate the market for the manufacturing of terry towelling.

With respect to public interest concerns, the Commission found that the proposed transaction will result in about 50 jobs being lost in Colibri. Despite the anticipated job losses, the public interest outcome of the proposed merger is positive, since it is ultimately intended to save about 277 jobs with real prospects of jobs lost in the Eastern Cape being replaced by similar appointments in the Western Cape.

The Commission is of the view that the public interest outcomes in this matter, *i.e.* saving jobs, outweigh the concerns raised. However, the potential for information exchange between Prilla and Colibri is a concern which is remedied by the conditions to prevent cross directorships. The conditions have been by agreement between the Commission and the IDC.

1. **Conditions**

1.1 For as long as the *IDC*, either directly or indirectly through any controlled entity, has control over *Prilla*, and also controls *Colibri*, the *IDC* shall not appoint the same executive to serve on the board of *Prilla* and *Colibri*, simultaneously.

1.2 The *IDC* will ensure that, only the *specified employees* are retrenched, as a result of the merger.

2. **Monitoring of compliance with this Conditions**

2.1 The *IDC* shall submit to the Commission an affidavit by a senior official confirming compliance with the conditions in paragraph 3.1. and 3.2. above on an annual basis. The first such affidavit to be submitted on 1 March 2013.

2.2 The *IDC* shall report to the *Commission* on a 6 monthly basis on retrenchments of employees, for a period of 1 year after the *Approval date*.

2.3 In the event that the *IDC* relinquishes control over either *Prilla* or *Colibri*, it must inform the *Commission* in writing, within 1 month of concluding the sale agreement. The *IDC* must at the same time produce a signed copy of any sale agreement to the *Commission*.

2.4 The reports and/or documents referred to in paragraph 4.1; 4.2. and 4.3 must be submitted to the following email address: mergerconditions@compcom.co.za

3. **Duration of the Conditions**

3.1 The Conditions contained herein shall be effective as long as the *IDC* has either direct or indirect control over both *Prilla* and *Colibri*.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.