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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

ECONOMIC DEVELOPMENT DEPARTMENT**NOTICE 1064 OF 2015****COMPETITION COMMISSION****NOTIFICATION OF CLOSED CONDITIONAL MERGER APPROVALS****1 APRIL 2015 – 30 SEPTEMBER 2015**

**1. CASE NO. 2011JUL0147 SYNERGY INCOME FUND LIMITED AND THE
PROPERTY LETTING ENTERPRISE KNOWN AS KWAMASHU SHOPPING
CENTRE**

The Commission had imposed a condition that required Synergy to negotiate with Spar to remove the exclusivity clause contained in the lease agreement. After evaluating the reports submitted, the Commission found that Synergy has complied with the conditions imposed.

2. CASE NO. 2013JAN0020 AFRICUM LIMITED AND AGRINET LIMITED

The Commission imposed a moratorium on merger related job losses with respect to the Target Firm's Bellville warehouse for a period of 24 months from the Operative Date. After evaluating the information submitted, the Commission was satisfied that Africum has complied with the condition in that no employees were retrenched as a result of the merger for a period of two years subsequent to the Operative Date.

**3. CASE NO. 2013MAR0099 CANNISTRARO INVESTMENT (PTY) LTD AND ALERT
STEEL HOLDINGS LIMITED**

The Commission imposed conditions aimed at capping the number of merger-related retrenchments at 150 (100 skilled and 50 semi-skilled) for a period of two years following the merger. During the second reporting period, the merging parties informed the Commission that Alert Steel was placed under business rescue and had been provisionally liquidated. It could therefore not comply further with the obligations imposed by the conditions. The Commission therefore found that prior to being liquidated; the merging parties had been in compliance with the conditions as they had not exceeded the 150 cap set by the conditions in relation to the merger related retrenchments.

4. CASE NO. 2014APR0120 SHOPRITE CHECKERS PROPRIETARY LIMITED AND KLIPAKKERS PROPRIETARY LIMITED

The Commission had imposed a condition that required Shoprite Checkers to employ all of the Affected Employees, subject to them meeting the criteria for the positions for which they had applied. The Commission found that Shoprite Checkers employed 30 of the 45 Affected Employees and the remaining 15 employees were not employed for various reasons which made them fall short of the criteria stipulated in the conditions. The Commission was satisfied that the merging parties had complied with the conditions.

5. CASE NO. 2011NOV0343 SUNSET BAY TRADING 368 (PTY) LTD AND JOBLING INVESTMENTS (PTY) LTD

The Competition Tribunal imposed a condition that required the Merged Entity to continue supplying the products to stockists on fair, reasonable and non-discriminatory terms. After evaluating the reports submitted, the Commission found that the Merged Entity has complied with the conditions imposed.

6. CASE NO. 2013AUG0397 CA SALES HOLDINGS (PTY) LTD AND SMC BRANDS SA (PTY) LTD

The Competition Tribunal's condition required CA Sales to exercise its Call Option on or before 31 October 2014 failing which the merging parties would be required to obtain a new approval to purchase the remaining issued share capital of SMC from the Commission. The Commission found that CA Sales exercised its call option to acquire the remaining issued share capital in SMC before 31 October 2014 as required by the Conditions.

7. CASE NO. 2012JAN0007 ZEDER FINANCIAL SERVICES LIMITED AND AGRICOL HOLDINGS

The Competition Tribunal imposed a condition that required the merging parties to amend the restraint of trade period stipulated in the merger agreement, from six years to three years. The Commission was satisfied that the merging parties complied with the Conditions as they amended the restraint of trade period from six years to three years and did not enter into any subsequent agreements or arrangements while the restraint of trade clause was in effect.

8. CASE NO. 2005AUG1747 MERCANTO INVESTMENTS (PTY) LTD AND JOHNNIC HOLDINGS LIMITED

The Competition Tribunal's conditions required the merging parties to divest their interest in Gallagher Estate Exhibition and Convention Centre ("GEEC") as a going concern. In early 2011, Johnnic disposed of the GEEC business, as a going concern, to the Gallagher Charitable Trust, an independent purchaser and thus complied with the conditions.

9. CASE NO. 2013AUG0371 OCEANA GROUP LIMITED AND FOODCORP PROPRIETARY LIMITED

The Competition Appeal Court imposed a condition requiring Oceana to divest the Glenryk Trademark. Oceana sold its Glenryk Trademark to Bidvest Namibia Fisheries Holdings (Pty) Ltd and this was notified to the Commission in March 2015. The Commission was satisfied that Oceana complied with the conditions.

10. CASE NO. 2012AUG0508 OVERBERG AGRI BEDRYWE (PTY) LTD AND GRAIN FARMERS GROUP LIMITED

The Commission imposed conditions aimed at capping the number of merger-related retrenchments at 54 blue collar employees for a period of two years following the merger. Based on the information submitted, the Commission found that the merged entity had complied with the conditions imposed as it had retrenched less than 54 blue collar employees.

11. CASE NO. 2010MAY5129 METROPOLITAN HOLDINGS LIMITED AND MOMENTUM GROUP LIMITED

The Competition Tribunal imposed a moratorium on merger related retrenchments for a period of 2 years from the effective date of the merger. During the moratorium period, the Commission investigated allegations of an apparent breach regarding the redeployment strategy embarked upon by the merged entity. The Commission's investigation revealed that the bulk of the employees were successfully redeployed in the merged entity, with the remainder being offered voluntary separation packages and subject to natural attrition. The Commission therefore concluded that there was no breach of the merger condition.

**12. CASE NO. 2014APR0124 BB INVESTMENT COMPANY PROPRIETARY LIMITED
AND ADCOCK INGRAM HOLDINGS PROPRIETARY LIMITED**

The Competition Tribunal imposed a condition that required Adcock to not retrench any employees in its South African based operations for a period of 1 year. After evaluating the information submitted, the Commission was satisfied that the condition had been complied with.

**13. CASE NO. 2013MAR0123 PRESMOOI (PTY) LTD, SAVYON BUILDING (PTY) LTD
AND IPS INVESTMENTS (PTY) LTD AND DRYSTONE INVESTMENTS (PTY) LTD,
ODEON INVESTMENTS (PTY) LTD AND ADAMAX PROPRIETARY PROJECTS
(PTY) LTD**

The Competition Tribunal imposed a condition that required the Acquiring Firms to not retrench the employees of the Target Firms as a result of the merger for a period of 2 years from the approval date. After evaluating the information submitted, the Commission was satisfied that the conditions had been complied with as no employees were retrenched during the 2 year period as a result of the merger.

**14. CASE NO. 2010NOV5437 AFRIPACK (PTY) LTD AND LAMINATED AND COATED
PRODUCTS OF NAMPACK PRODUCTS LIMITED**

The Commission imposed conditions that sought to ensure that the merging parties implemented a maximum pricing policy for a period of three years post-merger in order to address the likely competition concerns that arose as a result of the merger. Based on the information submitted, the Commission found that the merging parties had complied with the conditions imposed.

**15. CASE NO. 2011SEP0281 PIRUTO B.V. AND LEXSHELL 849 INVESTMENTS AND
OPTIMUM COAL HOLDINGS**

The Competition Tribunal imposed a condition that required the acquiring firm to reduce Shanduka Coal's allocation of coal per annum at the Richards Bay Coal Terminal and which was used by Graspan Colliery, to zero by the end of March 2015. The merged entity submitted a report confirming that Shanduka Coal's export allocation rights were reduced to zero with effect from 16 February 2014. The Commission thus found that the acquiring firm complied with the conditions.

16. CASE NO. 2011JUN080 SENWES LIMITED AND BUNGE SENWES AFRICA (PTY) LTD

The Commission imposed a condition to ensure that Senwes provided storage services to its other clients on the same terms and conditions as Bunge Senwes for as long as the joint venture agreement ("JV Agreement") between Senwes and Bunge Senwes Africa was in existence. After evaluating the information submitted, the Commission was satisfied that the conditions had been complied with. In addition, the Commission found that the conditions were no longer applicable as Senwes had exited the JV Agreement as a result of a transaction unconditionally approved by the Commission on 27 July 2015.

17. CASE NO. 2009JUL4548 REMGRO LIMITED AND VENFIN LIMITED

The Competition Tribunal imposed a condition to ensure that Remgro used its best endeavours not to be a conduit for information flow between competing firms which it had an interest in, in relation to the stolen vehicle recovery market. The Commission found that the conditions are no longer applicable as Remgro had disposed of its shareholding in Tracker during 2011. As a result of this disposal, the Commission found that the risk of the exchange of confidential competitively sensitive information between entities within the Remgro group has therefore fallen away.

**ECONOMIC DEVELOPMENT DEPARTMENT
NOTICE 1065 OF 2015
COMPETITION COMMISSION**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

NOKIA CORPORATION

AND

ALCATEL-LUCENT SOCIÉTÉ ANONYME

2015JUN0323

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:

1. On 15 June 2015 the Competition Commission ("the Commission") received notice of an intermediate merger. Nokia Corporation ("Nokia") intends to acquire between 50% and 100% of the share capital issued by Alcatel-Lucent ("Alcatel-Lucent") to be effected by means of a public tender for offers ("the proposed transaction").
2. On completion of the proposed transaction, Nokia will acquire sole control over Alcatel-Lucent in terms of sections 12(2)(a), (b) and (c) of the Competition Act No. 89 of 1998, as amended ("the Act").
3. It is the intention of the merging parties that following the completion of the proposed transaction anticipated in 2016, the various Nokia and Alcatel-Lucent entities, including in South Africa, will be integrated.
4. Nokia is a multinational company incorporated in Finland. It is a public company listed on the Helsinki Stock Exchange and the New York Stock Exchange and is not controlled by

any single shareholder. In South Africa, it controls Nokia Solutions and Networks Holdings Proprietary Limited and Nokia Solutions and Networks South Africa Proprietary Limited.

5. Alcatel-Lucent is a public company incorporated in France and listed on the Euronext and New York Stock Exchange. It is not directly or indirectly controlled by any one firm. In South Africa, it controls Alcatel-Lucent South Africa Proprietary Limited and Lucent Technologies South Africa Proprietary Limited.
6. Nokia is an international mobile telecommunications company involved in the manufacture and sale of cellular telephony and related services. It is organised into three business units, namely Nokia Networks, HERE and Nokia Technologies. For purposes of analysis of the proposed transaction, the activities and products supplied by Nokia Networks in the South African market are relevant.
7. Alcatel-Lucent is a telecommunications solutions provider. Its business is organised into Access and Core Networking operating units. The Access unit includes its activities in RAN equipment. Core Networking includes Core Network System ("CNS") equipment and associated unattached network infrastructure services such as Internet Protocol (IP) Routing, IP Transport and IP Platforms.
8. As part of its investigation, the Commission obtained the views of an independent expert, the European Commission and competitors and customers of the merging parties to gather evidence to enable it to formulate its view on the relevant markets and the likely competitive effects of the proposed transaction.
9. In line with the Commission's decision in the *Nokia/Siemens* merger and the Tribunal's previous ruling in the *Nokia/Motorola* merger, the Commission concluded that for the purpose of the proposed transaction, the provision of Core Network Systems (including equipment) and unattached network infrastructure services associated to mobile network services constitute the relevant product markets.

10. The competitive assessment of the markets for the supply of core network systems and unattached network infrastructure services was limited to the South African market.
11. The Commission's investigation found that the activities of the merging parties overlap horizontally in respect to the following:
 - (i) the national supply of Core Network Systems (including equipment)
 - (ii) the national supply of unattached network infrastructure services
12. In relation to the national market for the supply of Core Network Systems (including equipment), the combined post-merger market share of the merged entity is approximately [between 20% and 30%] which accords with the Dell-Oro market share data received from the merging parties. The market share accretion arising is relatively low [less than 5%]. There are a small number of large players active in the relevant market such as Ericsson [between 60% and 70%], Huawei [between 10% and 20%] and Cisco [less than 5%], among others. These rivals will continue to constrain the merged entity post-merger. Given the low market accretion, the proposed transaction is unlikely to alter the market structure in the affected market in South Africa post-merger.
13. In relation to the national market for the supply of unattached network infrastructure services, according to DellOro market share data, the merged entity's combined post-merger market share is [between 10% and 20%]. There are large players active in the relevant market such as Huawei [between 40% and 50%], Ericsson [between 20% and 30%], ZTE [between 10% and 20%] and Cisco [less than 5%], among others. They will continue to constrain the merged entity post-merger. In light of the small market share accretion **[less than 5%], the** proposed transaction is therefore unlikely to alter the market structure in the affected market in South Africa post-merger.
14. The market share assessment has shown that for each relevant market credible alternative players will continue to constrain the merged entity post-merger. The Commission concludes that the proposed transaction is unlikely to substantially prevent or lessen competition in the markets where the merging parties compete.

15. In addition, the Commission found that coordinated effects are unlikely to arise from the proposed transaction. The products involved are complementary and the affected markets are characterised by innovation, which makes collusion on price less likely to be sustained.
16. In relation to the concerns raised by market participants, the Commission found that the merged entity is legally obligated to comply with the terms of existing agreements, including service level agreements, entered into with its customers. Furthermore, there are remedies available to customers should the merged entity default on its obligations, which will be provided for in the termination clause of the respective agreements.
17. In addition, customers have some degree of countervailing power since the affected markets are characterised by bidding processes and prices are negotiated on the basis of global benchmarks. The Commission found that it is unlikely that the proposed merger raises a significant change in the bargaining position of the market participants.
18. The Commission also found that the OSSii initiative exists irrespective of the proposed transaction. The negotiation for an OSS license is not performed on a national level. Any condition imposed by the Commission on the merged entity would need to take cognisance of the OSSii initiative's free, reasonable and non-discriminatory ("FRAND") terms, which on the submission of Nokia were complied with.
19. Furthermore, the merged entity is obligated to comply with the terms of existing license agreements negotiated and entered into between Alcatel-Lucent and third parties post-merger. In addition, the Commission found that there are remedies available to third parties should the merged entity default on its obligations which are provided for in the termination clause of the agreements. The Commission found that the concerns raised by the market participants do not warrant behavioural remedies.
20. The proposed transaction is likely to raise public interest concerns due to employment losses. The Commission found that the retrenchments of the 60 employees may be inevitable due to the duplication of roles identified by the merging parties. The potential affected employees are a relatively substantial proportion of the merged entity's combined workforce (402 employees), at approximately 15%. The potential affected employees are

skilled and are likely to find alternative employment in the short term since they possess transferrable skills and have sufficient tertiary qualifications to find alternative employment in the short term. Nevertheless, it is the Commission's view that an employment condition is imposed upon the merging parties to ensure that no more than 60 employees will be retrenched as a result of the proposed merger in South Africa.

21. In relation to the effect of the proposed transaction on BEE, the merging parties confirm that the shareholding of the BEE shareholders of Nokia Holdings SA, namely Business Venture Investments No1126 Proprietary Limited and Business Venture Investments No1125 Proprietary Limited will remain unchanged post-merger, however there is a possibility that their shareholding will be adjusted once Nokia commences with integration planning. The merging parties have committed to consider potential changes to the BEE structure and implications in the appropriate time.
22. The Commission is concerned about the uncertainty regarding the post-merger impact in respect of BEE. This impact is merger specific, however the Commission was unable to determine whether it is substantial (positive or negative) or justified given that the merging parties were not forthcoming with this information during the investigation. Given this uncertainty in relation to the post-merger impact on BEE, the Commission has imposed a condition in this regard.
23. The Commission is of the view that the harm identified can be corrected by way of remedies. These are attached as Annexure A to the Commission's recommendation.
24. The Commission approves the proposed transaction subject to the conditions contained in **Annexure A.**

ANNEXURE A

CC Case Number:2015Jun0323

In the intermediate merger between:**NOKIA CORPORATION**

Primary acquiring firm

and

ALCATEL-LUCENT SOCIÉTÉ ANONYME

Primary target firm

CONDITIONS

1. DEFINITIONS

In this document the following expressions bear the meanings assigned to them below and related expressions bear corresponding meanings—

- 1.1 **“Act”** means the Competition Act, No. 89 of 1998 (as amended);
- 1.2 **“Affected Employees”** mean no more than 60 employees identified and employed by the merged entity falling within Grade E, Grade D and Grade C of the Paterson Grading System as set out in Annexure A.
- 1.3 **“Alcatel-Lucent”** means Alcatel-Lucent Société Anonyme, a public company duly incorporated in France, with its principal place of business at 148/152 route de la Reine, 92100 Boulogne-Billancourt, France;

- 1.4 **“Approval Date”** means the date referred to in the Competition Commission’s Merger Clearance Certificate (Form CC15);
- 1.5 **“Business Days”** mean any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.6 **“Clearance Date”** means the date referred to in the Commission’s Merger Clearance Certificate (Form CC15);
- 1.7 **“Conditions”** mean the employment conditions set out in paragraph 3 below;
- 1.8 **“Condition Period”** means the period commencing on the Implementation Date and ending on three years post the Implementation Date;
- 1.9 **“Commission”** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act;
- 1.10 **“Competition Tribunal”** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act;
- 1.11 **“Competition Appeal Court”** means the Competition Appeal Court of South Africa, a court established in terms of section 36 of the Act;
- 1.12 **“Implementation Date”** means the date, occurring after the Approval Date, on which the merger is implemented by the merging parties;
- 1.13 **“Labour Relations Act”** means the Labour Relations Act, No. 66 of 1995 (as amended);
- 1.14 **“Merger”** means the acquisition by Nokia of the issued share capital of Alcatel-Lucent, and to the extent possible, the entire issued ordinary share capital of Alcatel-Lucent, to be effected by way of a public tender for offers;
- 1.15 **“Merged Entity”** means the legal entity to be established pursuant to the successful implementation of the Merger;

- 1.16 **“Merging Parties”** mean, collectively, Nokia and Alcatel-Lucent;
- 1.17 **“Nokia”** means Nokia Corporation, a public company duly incorporated in Finland, with its principal place of business at Karaportti 3 P.O Box 226, FI-00045 Nokia Group, Finland;
- 1.18 **“Nokia South Africa”** means Nokia Solutions and Networks Holdings Proprietary Limited; and
- 1.19 **“Paterson Grading System”** refers to the job grading system set out in Annexure A.

2. RECORDAL

- 2.1 The merging parties notified the merger to the Commission on 15 June 2015 in terms of which Nokia proposed acquiring between 50% and 100% of the share capital issued by Alcatel-Lucent to be affected by means of a public tender for offers in France and in the United States.
- 2.1.1 The Commission's assessment of the merger identified the following relevant markets:
- 2.1.1.1 The market for the provision of Core Network Systems, including equipment in South Africa.
- 2.1.1.2 The market for the provision of associated unattached network infrastructure services in South Africa.
- 2.1.2 The Commission's concerns are set out in paragraph 2.2 and 2.3 below.

2.2 Effect of the Merger on employment

2.2.1 In respect to the public interest, the merging parties submit that the merger may result in the retrenchment of a maximum of 60 (sixty) affected employees of the merged entity in South Africa.

2.2.2 The Commission finds that the merger may result in employment losses of up to 60 employees over a 3 (three) year period in South Africa. Such employment losses directly arise as a result of the merger. Accordingly, the Commission is concerned about the likely impact of the merger on employment.

2.2.3 In order to remedy the public interest concerns arising from the merger as identified by the Commission, the Commission and the merging parties hereby agree to the Conditions set out in paragraph 3 below.

2.3 Effect of the Merger on Black Economic Empowerment (BEE)

2.3.1 In relation to the effect of the proposed transaction on BEE, the merging parties confirm that the shareholding of the BEE shareholders of Nokia Holdings SA, namely Business Venture Investments No1126 Proprietary Limited and Business Venture Investments No1125 Proprietary Limited will remain unchanged post-merger, however there is a possibility that their shareholding will be adjusted once Nokia commences with integration planning.

2.3.2 The merging parties have committed to consider potential changes to the BEE structure and implications in the appropriate time.

2.3.3 Given this uncertainty in relation to the post-merger impact on BEE, the Commission has imposed a condition in this regard.

3. CONDITIONS TO THE APPROVAL OF THE MERGER

3.1 Employment Conditions

3.1.1 The Merged Entity shall limit the number of retrenchments of Affected Employees arising as a result of the proposed merger to 60.

3.1.2 For the sake of clarity, retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

3.1.3 The Affected Employees shall be the first to be offered employment within Nokia in South Africa, for which they are suitably qualified, when vacant positions become available and this will occur before the vacant positions are advertised externally. This offer to Affected Employees will continue for a period of 12 (twelve) months after the expiry of the moratorium referred to in paragraph 3.1.1 of these Conditions. Employment of the Affected Employees will be subject to the

Affected Employees meeting the standard requirements for employment in such vacant positions.

3.2 Effect of the Merger on BEE

3.2.1 The Merged Entity shall not, as a result of the merger, dilute the shareholding of the BEE shareholders, Business Venture Investments No. 1126 Proprietary Limited and Business Venture Investments No 1125 Proprietary Limited in Nokia Solutions and Networks Holdings Proprietary Limited.

3.2.2 The Merged Entity shall not, as a result of the merger, dilute the shareholding of the BEE shareholder, Kunene Technology Investments Proprietary Limited, in Alcatel-Lucent South Africa Proprietary Limited.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

4.1 An apparent breach by the Merged Entity of any of the Conditions will be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Competition Commission.

4.2 Employment Conditions

4.2.1 The Merging Parties or its South African subsidiaries shall circulate a copy of the Conditions to all employees and their respective employee representatives within 7 (seven) business days of the Approval Date.

4.2.2 As proof of compliance thereof, the Merging Parties or Nokia South Africa shall within 7 (seven) business days of circulating the Conditions, provide the Commission with an affidavit by a senior representative attesting to the circulation of the Conditions and attach a copy of the notice sent to the employees and employee representatives.

- 4.2.3 Nokia shall inform the Commission in writing of the Implementation Date, within 7 (seven) business days of it becoming effective.
- 4.2.4 Any employee who believes that his/her employment with the merging parties has been terminated in contravention of the Conditions may approach the Commission with his or her complaint.
- 4.2.5 The Merged Entity shall submit a report on an annual basis confirming compliance with the Conditions set out in paragraph 3. The report shall indicate the number of retrenchments and the reasons for the retrenchments as well as the changes in BEE shareholding. The report shall be accompanied by an affidavit confirming the accuracy of the information contained in the report. The affidavit must be duly attested to by a senior official of the Merged Entity.
- 4.2.6 The first report shall be submitted on the anniversary of the Implementation Date. The remaining two reports will each be submitted on the second and third anniversary of the Implementation Date, respectively.
- 4.2.7 All correspondence in relation to these Conditions shall be submitted to the following email address: mergerconditions@compcom.co.za.

5. TERMINATION OF THE CONDITIONS

- 5.1 The Conditions will automatically terminate upon fulfilment by the Merged Entity of its obligations contained herein, subject to the written approval of the Commission.

Annexure A

F Band – Strategic Intent

Policy making decisions (Top Management)

Top-level management give the overall direction of the firm. Top management decides on policy in all major areas of operation (finance, production, marketing).

E Band – Strategy Execution

Programming Decisions/Long Term Strategy/Strategy Execution (Senior or General Management)

Senior management decides on organisational structure and the overall programme for major functions.

D Band – Tactical management

Interpretive/Probabilistic Decisions (Middle Management/Professional)

Middle management decides on systems and procedures, rules and regulations.

C Band – Advanced operational

Determined/Process/System Decisions (skilled employees)

B Band – Operational

Operational/Sub-system (Semi-skilled Employees)

A Band – Primary

Defined Decisions (Basic skills)

Basic skills regarding the elements of an operation.

ECONOMIC DEVELOPMENT DEPARTMENT**NOTICE 1066 OF 2015****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****ISMANETIX PROPRIETARY LIMITED****AND****PENUMBRA COAL MINING (PTY) LIMITED (IN BUSINESS RESCUE)****2015JUN0330**

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:

Background

1. On 3 July 2015 the Competition Commission (the Commission) received notice of an intermediate merger whereby Bravo Manufacturing (Pty) Ltd (Bravo Manufacturing), a company incorporated in accordance with the company law of South Africa intends to acquire certain assets from Viva Cupboards CC (Viva Cupboards) and Show Cupboards CC (Show Cupboards) (collectively referred to as the target firms). Post-merger, Bravo Manufacturing will control the assets of the target firms.

The parties and their activities

2. Bravo Manufacturing is controlled by Bravo Group (Pty) Ltd (Bravo Group), a firm incorporated in accordance with the company laws of South Africa. The Bravo Group is controlled by an equity fund. The target firms are controlled by an individual.

3. The Equity fund that controls the Bravo Group is a private equity fund manager which takes significant equity positions in medium and large sized companies that have experienced management teams. The equity fund has equity positions in various firms. The activities of these firms are not relevant for the proposed transaction.
4. Bravo Manufacturing is involved in the manufacture and sale of a wide range of household furniture products. Bravo Manufacturing conducts its business through the Sleep Products Division, the Case Goods Division, the Lounge Furniture Division and the Imports Division. Relevant to the proposed transaction is the Case Goods Division which produces a range of foiled particle board case goods comprising of wardrobe units (High Point brand name), kitchen units (High Point brand name), wall units (Pat Cornick and Valenti brand names) and bedroom suites (Pat Cornick, Valenti and Victoria Lewis brand names).
5. The primary target firms manufacture and distribute do-it-yourself (DIY) kitchens and built-in-cupboards and kitchens. Their complete range comprises of fully assembled kitchen carcasses and built-in cupboards, shelves and storage units (mainly in knock-down form and packaged in flat packs, which can be assembled by the end-customer or alternatively by the target firms or third party assemblers).
6. The primary target firms' products are supplied to the domestic furniture/home improvement market and are produced mainly from melamine.

Areas of overlap

7. The proposed transaction gives rise to a horizontal overlap in the broad market for non-solid case goods. Bravo Manufacturing sells mostly fully-assembled freestanding case goods to the traditional furniture retail market. The target firms on the other hand sell fitted case goods through non-traditional routes to market, mainly in the knock-down form through DIY stores such as Builders Warehouse and on contract to property developers in townhouse developments. Therefore, the Commission assessed the competition effects of the proposed transaction in the broader market for non-solid case goods.

8. The proposed transaction also gives rise to a potential vertical relationship between Bravo Manufacturing and the target firms in that Bravo Manufacturing supplies the target firms with built-in cupboards and bookcases in knock-down format. However, no foreclosure concerns arise.

Competition analysis

9. In the national market for the manufacture and supply of non-solid case goods the Commission found that the merged entity would have a low post-merger market share. The remainder of the market shares will be held by competitors such as Donnelly, Pilot, Furniture Perfection, Blues Alley and Jack Maserow among others.
10. The Commission further found that the national market for the manufacture and supply of non-solid case goods is fragmented. The Commission is of the view that the merged entity will still face competition post-merger. Importantly, the Commission notes that Bravo Manufacturing is not acquiring the target firms but the target firms' assets.
11. Therefore, the Commission concludes that it is unlikely that the proposed transaction will lead to a substantial prevention or lessening of competition in the national market for the manufacture and supply of non-solid case goods.

Public interest considerations

12. The Commission found that some permanent employees at the target firms are likely to lose their jobs should the target firms cease to do business. The Commission requested a list of affected employees to assess their skills levels. The list shows that the affected employees are semiskilled and unskilled employees.
13. The Commission is of the view that the merger has a positive effect on employment in that some employees at the target firms will be retained by Bravo Manufacturing. However, the Commission is of the view that a condition to limit further job losses at the merged entity is warranted. The condition seeks to limit the number of retrenchments at the target firms. Further, the condition requires Bravo Manufacturing to give first

preference to the target firms' retrenched employees should there be any available jobs at Bravo Manufacturing. The conditions are attached hereto as **Annexure A**.

14. There are no other public interest concerns that arise as a result of the proposed transaction.
15. The Commission approves the proposed transaction with conditions.

ANNEXURE A:
Bravo Manufacturing Proprietary Limited

And

Viva Cupboards CC and Show Cupboards CC

CASE NUMBER: 2015Jul0378

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1 **"Acquiring Firm"** means Bravo Manufacturing Proprietary Limited;
- 1.2 **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC 15);
- 1.3 **"Commission"** means the Competition Commission of South Africa;
- 1.4 **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.5 **"Conditions"** mean these conditions;
- 1.6 **"Implementation Date"** means the date on which the Merger is implemented;
- 1.7 **"Merger"** means the acquisition by Bravo Manufacturing of certain assets of Viva

Cupboards CC and Show Cupboards CC;

- 1.8 **"Merging Parties"** mean Bravo Manufacturing, Viva Cupboards CC and Show Cupboards CC;
- 1.9 **"Merged Entity"** means the combination of the Acquiring Firm and the the Target Firms as defined in 1.14;
- 1.10 **"Rules"** mean the Rules for the Conduct of Proceedings in the Competition Commission and the Rules for the Conduct of Proceedings in the Competition Tribunal;
- 1.11 **"Target Firm"** means certain assests of Viva Cupboards CC and Show Cupboards CC;

2. RECORDAL

2.1. On 3 July 2015, the Merging Parties filed an intermediate merger transaction with the Commission. Following its investigation of the Merger, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant markets.

2.2. The merging parties are of the view that the proposed transaction will have a positive effect on public interest, specifically employment, for the following reasons –

- 2.2.1. as a result of the business rescue proceedings, the Affected Employees will be retrenched by the Business Rescue Practitioner;
- 2.2.2. the Individuals will be offered employment by the Primary Acquiring Firm as part of the implementation of the proposed transaction, but after the business rescue proceedings have been finalised (including the retrenchment process);

- 2.2.3. having regard to the foregoing, only some of the Affected Employees will ultimately remain without a job post the implementation of the proposed transaction (subject to some employees accepting the job offers made by the Primary Acquiring Firm);
 - 2.2.4. a further number of full-time employment positions will be made available to the Contract Workers; and
 - 2.2.5. therefore, ultimately, the proposed transaction will result in the creation of full-time employment positions for some Individuals.
- 2.3. The merging parties are willing to agree to the conditions contained herein to fortify the positive effect which the proposed transaction will have on employment.
- 2.4. In this regard, the Acquiring Firm has indicated to the Commission that it intends, upon implementation of the Merger, to offer employment to some Individuals from Viva Cupboards CC and Show Cupboards CC who will be required at the Primary Acquiring Firm.
- 2.5. The Acquiring Firm is also willing to give an undertaking that, upon the implementation of the Merger, it will inform the Affected Employees of any job opportunities which arise at the Primary Acquiring Firm. To the extent that any of the Affected Employees apply for these jobs, and to the extent that such employees are suitably qualified for the relevant job, the Acquiring Firm will give preference to the Affected Employees over other equally qualified applicants who are not part of the Affected Employees.
- 2.6. The Commission is of the view that these undertakings should be made a condition to the approval of the Merger as this will fortify the positive effect of the proposed transaction on employment.

2.7. Therefore the Commission sets out the following conditions:

3. CONDITIONS TO THE APPROVAL OF THE MERGER

- 3.1 Upon the Implementation Date of the Merger, the Acquiring Firm shall offer employment to the Individuals as defined in clause 1.16 above.
- 3.2 The Acquiring Firm shall ensure that the Affected Employees are informed should any job opportunities become available at the Acquiring Firm for a period of 2 (two) years from the Implementation Date of the Merger. To the extent that any of the Affected Employees apply for these jobs, and to the extent that such employees are suitably qualified for the relevant job, the Acquiring Firm will give preference to the Affected Employees over other equally qualified applicants who are not part of the Affected Employees.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 4.1. The Acquiring Firm shall inform the Commission of the Implementation Date within 5 (five) business of the implementation of the transaction.
- 4.2. The Acquiring Firm and the Business Rescue Practitioner shall inform the Affected Employees and the Contract Employees and/or registered trade unions and/or employee-representatives, in writing of the above conditions within 5 (five) business days of the Approval Date of the Merger.
- 4.3. The Acquiring Firm, through its Chief Executive Officer, and the Business Rescue Practitioner must provide affidavits attesting to the notification referred to in paragraph 4.1 above, and provide a copy of the said notice to the Commission within 10 (ten) business days of the approval date of the Merger.

- 4.4. The Acquiring Firm shall within 6 (six) months of the Implementation Date submit an Affidavit confirming its compliance in employing the 31 Individuals as required in terms of condition 3.1.
- 4.5. The Acquiring Firm shall, on an annual basis on the anniversary of the Implementation Date, for a period of 2 (two) years, submit a report to the Commission indicating their compliance with respect to condition 3.2.
- 4.6. The documents referred to in paragraphs 4.1 - 4.4 above must be submitted to the following e-mail address: mergerconditions@compcom.co.za.

5. **GENERAL**

- 5.1. In the event that the merging parties appear to have breached the above conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the above conditions, this shall be dealt with in terms of the Rules.
- 5.2. Any employee who believes that the Merging Parties have not adhered to and so are in breach of these Conditions may approach the Commission with his/her complaint.

**ECONOMIC DEVELOPMENT DEPARTMENT
NOTICE 1067 OF 2015
COMPETITION COMMISSION**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

SBV SERVICES (PTY) LIMITED

AND

CERTAIN MOVABLE AND IMMOVABLE ASSETS OF ABSA BANK LIMITED

2015APR0226

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:

Background

1. On 30 April 2015, the Competition Commission ("Commission") received a notice of an intermediate merger whereby the primary acquiring firm, SBV Services (Pty) Ltd ("SBV"), intends to acquire the certain movable and immovable assets owned by Absa Bank Limited ("Assets").

Parties and their activities

2. The primary acquiring firm is SBV, a company incorporated in accordance with the company laws of the Republic of South Africa. SBV is not controlled by any firm. SBV is equalled owned by Standard Bank Limited ("Standard Bank"), Absa Bank Limited ("Absa"), FirstRand Bank Limited ("FirstRand") and Nedbank Limited ("Nedbank").
3. The primary target firm is the movable and immovable assets which provide Absa with an internal cash processing and ATM replenishment capability ("the Assets"). The

Assets comprise of note counting machines, note sorting machines, furniture and fittings and immovable assets being three (3) cash processing centres located at Ormonde, Vaal and Brackenfell and leased properties. The Assets are wholly owned by Absa.

4. SBV was originally formed as a utility by and for the banks, and although it is now fully commercial, its focus has been on services to banks. SBV offers primarily the following services: cash and valuable logistics, cash processing (primarily to banks) and guarding and monitoring for banks. SBV offers a wide range of services including wholesale cash processing and management solutions to the banking industry, retail cash processing and management services to business owners, secure cash-in-transit ("CIT") services for the movement of cash, ATM management services, shopping mall cash recycling systems, guarding services, specialised training services and risk management consulting services.
5. The Assets are used to provide Absa with an internal cash processing function for both the wholesale and retail markets and ATM replenishment capability. The processing and counting of cash is conducted by Absa internally in its cash centres.

Competitive assessment

6. The Commission considered the activities of the merging parties and found that the merging parties are both involved in the ownership of the Assets, i.e. note counting machines, note sorting machines and cash processing centres. The Commission found that SBV's acquisition of the Assets will increase SBV's capacity in relation to its cash processing capacity and increase its revenue in terms of the cash volumes it processes and thus eventually increase its market share. The Commission further found that the merging parties are vertically integrated with Absa being a customer of SBV and currently processing a portion of Absa's cash volumes in its cash processing centres.
7. The Commission further considered the impact of the entire outsourcing arrangement on competition and public interest grounds. In relation to the competition concerns assessed, the Commission found that retail customers have countervailing power and are able to choose which service provider to use for their cash management services.

The Commission thus found that the proposed transaction is unlikely to result in any significant competition concerns.

Public interest analysis

8. The Commission found that the proposed transaction raises a substantial public interest concern with respect to the impact on employment. The guarding services for the 3 cash processing centres being acquired fell under a contract with another cash management security company pre-merger. Post-merger, the cash processing centres will be transferred as a result of the proposed transaction and will fall under the management and control of SBV as opposed to Absa. Therefore, the cash processing centres will not be covered for guarding services through the Absa contract, post-merger. In this regard, the employment concern is merger specific.
9. The Commission found that there were numerous dedicated guards at the 3 cash processing centres that would be affected as a result of the merger. Post the transaction, these guards would become redundant and may lose their jobs should their employer not be able to redeploy them. The Commission considered the number of guards affected to be substantial.
10. The Commission therefore found that the proposed transaction raises a merger specific, substantial public interest concern and thus imposes the condition as contained in Annexure "A" to address the employment concern.
11. The Commission therefore approves the merger with conditions in terms of section 14(1)(b)(ii) of the Competition Act no.89 of 1998, as amended

ANNEXURE A**SBV SERVICES PROPRIETARY LIMITED
AND
CERTAIN MOVABLE AND IMMOVABLE ASSETS OF ABSA BANK LIMITED****CASE NUMBER: 2015APR0226**

CONDITIONS**1. DEFINITIONS**

The following expressions shall bear the meanings assigned to them below –

- 1.1 **"Acquiring firm"** or **"SBV"** means SBV Services (Pty) Ltd;
- 1.2 **"Absa"** means Absa Bank Limited;
- 1.3 **"Absa Owned Cash Processing Centres"** mean the Ormonde Cash Centre, Vanderbijlpark Cash Centre and Brackenfell Cash Centre;
- 1.4 **"Affected Employees"** mean the employees employed to provide guarding services at the Absa Owned Cash Processing Centres and encapsulated in the list referred to in paragraph 3.4 below;
- 1.5 **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (CC 15);
- 1.6 **"Business Day"** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;

- 1.7 **"Commission"** means the Competition Commission of South Africa;
- 1.8 **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.9 **"Conditions"** means these conditions;
- 1.10 **"Contract"** means the agreement between Absa and the Third Party concluded in October 2013 in terms of which the Third Party supplies various services to Absa, including the provision of guarding services at the Absa Owned Cash Processing Centres.
- 1.11 **"Implementation Date"** means the date, occurring after the Approval date, on which the merger is implemented by the merging parties;
- 1.12 **"Merger"** means the acquisition of control over certain movable and immovable assets of Absa by SBV as specified in the Supply of Services Agreement;
- 1.13 **"Merging Parties"** for the purposes of these Conditions mean the Acquiring firm and the Target firm as defined in this section;
- 1.14 **"Target Firm"** means certain movable and immovable assets of Absa Bank Limited.

2. **RECORDAL**

- 2.1 On 30 April 2015, the Merging Parties filed an intermediate merger transaction with the Commission. Following its investigation of the Merger, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in the market for cash processing. The Commission has, however, noted a public interest concern which may arise due to the fact that the

Absa Owned Cash Processing Centres will no longer belong to Absa after the Merger, and will therefore not form part of the Contract.

2.2 The Commission finds that the proposed transaction is unlikely to result in any employment losses in the Merging Parties business. However, the Commission considered the effects on employment at another cash management security company as a result of the termination of guarding services currently provided by it at the Absa Owned Cash Processing Centres. The Commission finds that the termination of these guarding services will affect the Affected Employees. The Commission is of the view that a condition is warranted to protect the Affected Employees.

2.3 In order to remedy the abovementioned negative impact on employment, the Commission hereby imposes the Conditions as set out in paragraph 3 below.

3. CONDITIONS

3.1 SBV shall not retrench any of its existing employees directly as a result of the Merger.

3.2 For the sake of clarity, retrenchments do not include (i) voluntary separation arrangements; (ii) voluntary early retirement packages or (iii) unreasonable refusals to be redeployed.

3.3 Should the Affected Employees be retrenched by their employer as a result of the Merger, SBV shall employ the Affected Employees, provided that they meet SBV's Screening Requirements and Security Standards. SBV shall be entitled to deploy the Affected Employees that it hires as it deems fit in accordance with its operational requirements. This condition shall apply for a period of 12 months from the Implementation Date of the Merger or when the Affected Employees have been hired by SBV, whichever is the shorter.

- 3.4 The Commission shall within 7 (seven) business days of the Approval Date provide SBV with a list of the Affected Employees including their qualifications, years of service at the Absa Owned Cash Processing Centres and contact details.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 4.1 The Merging Parties shall circulate a copy of the Conditions to the Affected Employee's employer or their legal representative within 5 (five) business days of the Approval Date.
- 4.2 As proof of compliance thereof, SBV shall within 10 (ten) business days of circulating the Conditions, submit an affidavit by a senior official attesting to the circulation of the Conditions and provide a copy of the notice that was sent.
- 4.3 SBV shall inform the Commission of the Implementation Date within five (5) business days following the Implementation Date.
- 4.4 As and when Affected Employees' employer retrenches the Affected Employees (should it do so), it shall provide the Commission with a list of their names and contact details, and the Commission shall immediately pass this list to SBV.
- 4.5 SBV shall, upon the termination of the Conditions, provide the Commission with a detailed report containing the following:
- 4.5.1 The number of the Affected Employees who met SBV's Screening Requirements and Security Standards and were offered employment and proof thereof.
- 4.5.2 The number of Affected Employees not offered employment and the

reasons thereof. The report must be accompanied by an affidavit confirming the accuracy of its contents.

- 4.6 All correspondence in relation to this merger must be submitted to the Commission's email address: mergerconditions@compcom.co.za.

**ECONOMIC DEVELOPMENT DEPARTMENT
NOTICE 1068 OF 2015
COMPETITION COMMISSION**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

**EDCON LIMITED, ACCENTURE HOLDINGS B.V. AND ACCENTURE SOUTH AFRICA
(PTY) LTD**

AND

THE CONSUMER CREDIT AND COLLECTION SERVICES JOINT VENTURES

2015SEP0503

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:

Background

1. On 1 September 2015, the Competition Commission (the Commission) received notice of a small merger whereby Edcon Limited (Edcon), Accenture Holdings B.V. (Accenture BV) and Accenture (South Africa) (Pty) Ltd (Accenture SA) intend to create the Consumer Credit and Collection Services Joint Ventures (JVs). Post-merger, Edcon, Accenture BV and Accenture SA will exercise joint control over the JVs.

The parties and their activities

2. Edcon and Accenture SA are companies incorporated in accordance with the company laws of South Africa. Accenture BV is a company incorporated in accordance with the company laws of the Netherlands.

3. Edcon is controlled by Edcon (BC) S.à.r.l (Luxembourg). Accenture SA and Accenture BV are controlled by Accenture S.à.r.l (Luxembourg) (Accenture S.à.r.l) which is in turn a subsidiary of Accenture Plc. Accenture Plc. is a public company listed on the New York Stock Exchange and is not controlled by any firm. Accenture Plc and its subsidiaries are hereafter referred to as the "Accenture Group".
4. Edcon is a large non-food retailer trading through a range of retail formats. The Group has several stores in South Africa, Botswana, Namibia, Swaziland, Lesotho, Mozambique and Zambia. Edcon sells footwear and apparel brands, its own private labels, as well as top international apparel and cosmetic brands that target customers across the entire socioeconomic spectrum.
5. The Accenture Group is a global organisation which provides management consulting, technology and outsourcing services. In South Africa, Accenture SA helps assess and advise organisations on how to maximise their operating performance. Part of this process involves developing and implementing technology to improve productivity and efficiency. Accenture SA is able to provide its customers with highly differentiated, industry based, end to end business services that combine management consulting, technology and business process outsourcing capabilities.
6. The target firms are newly established joint venture companies that will provide certain services to third-party customers locally and abroad. The JVs will provide certain services to customers such as banks, fast moving consumer goods retailers (particularly clothing retailers) and other consumer focused companies.

Areas of overlap

7. The Commission considered whether there were any overlaps between the activities of the merging parties. The Commission found that there is no horizontal overlap between the activities of the merging parties. However, the Commission found that the JVs give rise to a vertical overlap in the activities of the merging parties in respect of certain services offered by Accenture SA to Edcon.

8. However, the Commission found that the proposed transaction is unlikely to lead to any vertical foreclosure concerns post-merger. A customer of Edcon confirmed that it does not have any concerns with the proposed transaction as its relationship with Edcon is governed by a contract which is not affected by the proposed transaction. Further, the Commission notes that the rationale of the proposed transaction is to enable the JVs to offer certain services to third-party clients.

Coordinated effects

9. The Commission also considered whether the JVs will be a conduit for information exchange between Edcon and its competitors in the retail sector which the JVs will be providing certain services. In this regard, the merging parties undertake that they will put in place a governance structure that will prevent potential information exchange concerns arising from the proposed transaction.
10. To remedy potential information exchange between Edcon and its competitors the Commission is of the view that the undertakings by the merging parties with regards to information exchange should be made conditions to the approval of the proposed transaction. The conditions are attached hereto as **Annexure A**. The merging parties have been informed about the conditions and they did not raise any concerns.

Public interest considerations

11. The Commission found that there will be no job losses, as a result of the proposed merger as the merging parties' will need more employees to operate the JVs post-merger. Therefore, the Commission is of the view that the proposed transaction is unlikely to result in any employment losses.
12. The Commission approves the proposed transaction with conditions.

ANNEXURE A

Edcon Limited**And****The Consumer Credit and Collection Services Joint Ventures****CASE NUMBER: 2015Sep0503**

CONDITIONS**1. DEFINITIONS**

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1 **"Acquiring Firms"** mean Edcon Limited, Accenture Holdings B.V. and Accenture South Africa (Pty) Ltd
- 1.2 **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC 15);
- 1.3 **"Commission"** means the Competition Commission of South Africa;
- 1.4 **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.5 **"Conditions"** mean these conditions;
- 1.6 **"Edcon"** means Edcon Limited and its subsidiaries;
- 1.7 **"Implementation Date"** means the date on which the Merger is implemented;

- 1.8 **"Merger"** means the acquisition of The Consumer Credit and Collection Services Joint Ventures by the Acquiring Firms;
- 1.9 **"Merging Parties"** means the Acquiring Firms and the Target Firms;
- 1.10 **"Rules"** mean the Rules for the Conduct of Proceedings in the Competition Commission and the Rules for the Conduct of Proceedings in the Competition Tribunal;
- 1.11 **"Target Firms"** mean The Consumer Credit and Collection Services Joint Ventures

2. **RECORDAL**

- 2.1. On 1 September 2015, the Merging Parties filed a small merger transaction with the Commission. Following its investigation of the Merger, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.
- 2.2. However, the proposed transaction raises potential information exchange concerns between Edcon and its competitors in the retail sector through the Target Firms. The Commission is of the view that this information can be used by Edcon and its competitors to coordinate market outcomes.
- 2.3. The Merging Parties have made an undertaking that they will put a governance structure in place that will prevent information flow between Edcon and the Target Firms. The Commission is of the view that to remedy the potential information exchange between Edcon and the Target Firms, the undertaking by the Merging Parties should be made a condition to the approval of the Merger.
- 2.4. The Merging Parties are willing to agree to the conditions contained herein to prevent the potential information exchange concerns as a result of the Merger.

2.5. Therefore the Commission sets out the following conditions:

3. **CONDITIONS TO THE APPROVAL OF THE MERGER**

3.1 Upon the Implementation Date of the Merger, the Merging Parties shall ensure that:

3.1.1. The Target Firms are kept separate from Edcon operations. This shall include physical separation of its operations and separation of its information technology systems.

3.1.2. The directors appointed to the board of the Target Firms shall not be appointed, invited and/or attend meetings of the board and/or management committees(s) of Edcon.

3.1.3. The employees, management and executive and non-executive directors of the Target Firms shall not be involved in Edcon's retail and other operations nor attend any meetings.

3.1.4. The employees, management and executive and non-executive directors of the Target Firms operate under strict confidentiality restrictions and that no competitively sensitive information is made available to any of Edcon employees including any executive and non-executive Directors and managers.

3.1.5. Edcon shall ensure that all employees in its retail operations do not have access to the Target Firms' information technology systems which could potentially contain competitively sensitive information of Edcon's competitors.

4. **MONITORING OF COMPLIANCE WITH THE CONDITIONS**

- 4.1. The Merging Parties shall within three months of the Approval Date of the Merger develop and submit a confidentiality and information exchange policy to the Commission in line with the conditions specified above for its approval.
- 4.2. The Commission shall provide comments on the confidentiality and information exchange policy within ten business days of receiving the policy.
- 4.3. Within 10 business days of the approval of the policy by the Commission, the Merging Parties shall submit an affidavit confirming the implementation of the policy.
- 4.4. The documents referred to in paragraphs 4.1 and 4.3 above must be submitted to this e-mail address: mergerconditions@compcom.co.za.

5. **GENERAL**

In the event that the merging parties appear to have breached the above conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the above conditions, this shall be dealt with in terms of the Rules.

ECONOMIC DEVELOPMENT DEPARTMENT**NOTICE 1069 OF 2015****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****LIBSTAR OPERATIONS (PTY) LTD****AND****PATLEYS (PTY) LTD****CC CASE NO: 2015JUL0416**

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:

Introduction

1. On 17 July 2015 the Competition Commission ("Commission") received notice of an intermediate merger whereby, the primary acquiring firm Libstar Operations (Pty) Ltd ("Libstar") intends to acquire all the issued share capital of Patleys (Pty) Ltd ("Patleys") as a going concern. Following the implementation of the proposed transaction, Libstar will solely control Patleys.

Details of the merging parties

2. The primary acquiring firm, Libstar, is a private company incorporated in accordance with the company laws of the Republic of South Africa. It is wholly-owned and controlled by Abraaj Holdings Limited ("Abraaj Holdings"), a company registered in accordance with the laws of Cayman Islands. Abraaj Holdings is wholly-owned and controlled by an individual Mr Arif Masood Naqvi ("AMN"). Hereinafter reference to the "Libstar Group,"

incorporates Libstar and all its subsidiaries in South Africa. The Libstar Group comprises of firms that manufacture and distribute consumer products in the food and beverages sector, household and personal care industries, as well as providing various food and beverages solutions. The activities of the Libstar Group relevant for purposes of the proposed transaction relate to the manufacture of condiments (wet cold sauces and wet hot sauces), honey, cheese, herbs and spices.

3. The primary target firm, Patleys, is a company incorporated in terms of the company laws of the Republic of South Africa. Patleys does not control any other firm and it is ultimately controlled by the Bidvest Group Limited ("Bidvest"), a public company listed on the Johannesburg Securities Exchange Limited. Patleys sources, imports, markets and distributes branded consumer food products for multi-national firms and national firms and for its own brands (GoldCrest, Cook & Bake and Antonios). Its activities include performing the administration, warehousing, distribution, account management, merchandising and marketing of consumer products to the retail, wholesale and food service distributor markets in Southern Africa.

Areas of overlap

4. The Commission considered the activities of the merging parties in the national markets for the supply of wet cold sauces, wet hot sauces, herbs and spices, cheese and honey. The Commission also considered vertical overlaps that occur in the market for the manufacture and supply of canned food products and the market for the bottling and packaging of honey.

Competitive assessment

5. The Commission found that the market shares of the merging parties remain low in all the identified markets and is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in these markets. Further, the merged entity will compete against other big firms such as Tiger Brand Limited, Parmalat (Pty) Ltd, Inna Parma (Pty) Ltd, Highveld Honey Farms CC and Unilever Limited that compete in most of the identified markets. The Commission assessed possible foreclosure in the identified vertical overlaps, and found that the proposed transaction does not result in

any foreclosure, as there are other alternative customers and competitors in the markets.

6. The Commission received concerns from competitors regarding possible foreclosure post-merger. The Commission found that the merged entity is unlikely to have the ability to foreclose post-merger given the merged entity's low market shares. Therefore the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition.

Public interest analysis

7. The Commission identified a possible public interest concern in terms of section 12A (3) (a) and (b) of the Act. The Commission is of the view that the merged entity is likely to have an incentive to reduce its purchases of honey from a supplier post-merger as it in the process of increasing its production and bottling capabilities. The possible reduction of supplies could potentially affect a number of unskilled employees in the honey sector. The Commission engaged the merging parties and has reached consensus on the conditions attached as Annexure A.
8. The proposed transaction does not raise concerns on other public interest grounds.
9. The Commission approves the proposed transaction with conditions in terms of section 14(1)(b)(ii) of the Act.

Annexure A

Libstar Operations (Pty) Ltd

And

Patleys (Pty) Ltd

CC CASE NUMBER: 2015Jul0416

CONDITIONS

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings: –

- 1.1. **"Acquiring Firm"** means Libstar Operations (Pty) Ltd, a private company with share capital duly incorporated in terms of the laws of the Republic of South Africa;
- 1.2. **"Affected employees"** mean the individuals employed at Highveld Honey Farms CC comprising of 45 unskilled individuals dedicated to the honey bottling and packaging operations;
- 1.3. **"Approval Date"** means the date referred to in the Competition Commission's merger clearance certificate (Form CC 15);
- 1.4. **"Commission"** means the Competition Commission of South Africa as established in terms of the Competition Act 89 of 1998 as amended;
- 1.5. **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.6. **"Competition Rules"** means the Rules for the Conduct of Proceedings in the Commission;
- 1.7. **"Conditions"** means these conditions;
- 1.8. **"Effective Date"** means the last business day of the month in which the last of the

suspensive conditions in the Share Buy Back Agreement, Transaction Agreement and Subscription Agreement, are fulfilled or waived;

- 1.9. **“Highveld Honey Farms”** means Highveld Honey Farms CC, a close corporation established in terms of the laws of the Republic of South Africa;
- 1.10. **“Implementation Date”** means the date occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.11. **“Merger”** means the acquisition of control over Patleys (Pty) Ltd by Libstar Operations (Pty) Ltd;
- 1.12. **“Merged Entity”** means the merged business operations of Libstar Operations (Pty) Ltd and Patleys (Pty) Ltd;
- 1.13. **“Merging Parties”** mean Libstar Operations (Pty) Ltd and Patleys (Pty) Ltd;
- 1.14. **“Supply Agreement”** means the Supply and Purchase of Current Range of GoldCrest Branded Honey Agreement concluded between Patleys (Pty) Ltd and Highveld Honey Farms on 18 September 2015;
- 1.15. **“Target Firm”** means Patleys (Pty) Ltd, a private company incorporated in terms of the laws of the Republic of South Africa;
- 1.16. **“Tribunal”** means the Competition Tribunal of South Africa as established in terms of the Competition Act 89 of 1998 as amended;
- 1.17. **“Unskilled employees”** mean employees of the Highveld Honey Farms who do not have any post-matric qualifications;

2. Recordal

- 2.1. On 17 July 2015 the Commission received notice of an intermediate merger whereby, the Acquiring Firm intends to acquire all the issued share capital of the Target Firm, as a going concern. Following the implementation of the proposed transaction, the Acquiring Firm will solely control the Target Firm in terms of section 12(2)(a) of the Competition Act.

2.2. The Commission's investigation found that the proposed transaction is unlikely to substantially prevent or lessen competition in any of the markets that the Commission identified, as the Merged Entity's estimated post-merger market share in the markets assessed remain low post-merger.

2.3. The Commission finds that the proposed transaction is unlikely to result in any employment losses in the Merged Entity. However, the Commission considered the effects on employment at Highveld Honey Farms, which is a supplier of the Merging Parties. The employment concerns could result from a possible termination of the Supply Agreement that exists between Highveld Honey Farms and the Target Firm. The Commission finds that the termination of the Supply Agreement could affect approximately forty five (45) Unskilled Employees dedicated to the honey bottling operations of Highveld Honey Farms. The Commission is of the view that a condition is warranted to address possible negative effects that the merger may have on the Affected Employees at Highveld Honey Farms.

3. Conditions to the approval of the merger

3.1. For a predetermined from the Implementation Date, the Merged Entity shall not terminate the Supply Agreement with Highveld Honey Farms as a result of the merger.

3.2. For the avoidance of doubt, this Condition does not waive or alter the provisions of the Supply Agreement, such as the clauses relating to the termination of the Supply Agreement for breach, all of which remain in full force and effect.

4. Monitoring of compliance with the Conditions

4.1. The Merged Entity shall notify the Commission of the Implementation Date within five (5) business days of it becoming effective.

4.2. For predetermined period from the Implementation Date, the Merged Entity shall submit a report on each anniversary of the Implementation Date confirming

compliance with the Conditions which shall be attested to by an authorised senior official.

- 4.3. In the event that the Commission receives any complaint in relation to non-compliance with these Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach will be dealt with in terms of Rule 39 of the Competition Commission Rules.

- 4.4. All correspondence in relation these Conditions should be forwarded to mergerconditions@compcom.co.za.

The Merged Entity may at any time, on good cause shown, approach the Commission for the Conditions to be lifted, revised or amended.

WARNING!!!

To all suppliers and potential suppliers of goods to the Government Printing Works

The Government Printing Works would like to warn members of the public against an organised syndicate(s) scamming unsuspecting members of the public and claiming to act on behalf of the Government Printing Works.

One of the ways in which the syndicate operates is by requesting quotations for various goods and services on a quotation form with the logo of the Government Printing Works. Once the official order is placed the syndicate requesting upfront payment before delivery will take place. Once the upfront payment is done the syndicate do not deliver the goods and service provider then expect payment from Government Printing Works.

Government Printing Works condemns such illegal activities and encourages service providers to confirm the legitimacy of purchase orders with GPW SCM, prior to processing and delivery of goods.

To confirm the legitimacy of purchase orders, please contact:

Renny Chetty (012) 748-6375 (Renny.Chetty@gpw.gov.za),

Anna-Marie du Toit (012) 748-6292 (Anna-Marie.DuToit@gpw.gov.za) and

Siraj Rizvi (012) 748-6380 (Siraj.Rizvi@gpw.gov.za)

IMPORTANT Information from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.

