



competition commission
south africa

Weekly Media Statement

For Immediate Release

04 June 2020

LATEST DECISIONS BY THE COMPETITION COMMISSION

1.1 Senwesbel Limited (Senwesbel) & Senwes Limited (Senwes)/ Suidwes Holdings (Ring Fenced) (Pty) Ltd (Suidwes)

The Commission has recommended that the Competition Tribunal (Tribunal) approve the proposed transaction whereby Senwesbel and Senwes intend to acquire Suidwes with conditions.

Senwes is one of the largest agricultural businesses in South Africa, with its central head office in Klerksdorp (North West). Senwes has serviced the agriculture industry since 1909. It supplies its products largely to commercial farmers, processors (millers and oil seed processors) and traders. Its main activities include amongst others, grain handling and storage, financing, grain trading, grain transport, equipment sales, agricultural retail stores, insurance, agriculture inputs and agriculture services.

Suidwes is a 111-year-old agricultural company in South Africa with its central office situated in Leeudoringstad, North West Province. Its business activities include grain storage and handling, grain trading, retail outlets, financing and agricultural services, amongst others.

The Commission investigation found that the proposed merger will be likely to result in a substantial lessening of competition in the storage markets and associated grain trading markets in which Senwes and Suidwes operate. The proposed merger will be likely to result in loss of competitive rivalry between Senwes and Suidwes in the areas located in parts of Free State and North West provinces. However, given the public interest benefits that arise from the proposed merger especially if regard is had to the various scenarios that may apply in the counterfactual, the Commission and the merging parties have agreed on the following conditions which, in the Commission's view, address the concerns arising and secure a positive outcome from a public interest perspective:

To augment the employment benefits arising from the transaction of saving approximately 934 jobs from loss of employment should the transaction not occur, Senwes has proposed creating a significant black owned agricultural company which will be vertically integrated covering several levels of the grain supply chain. It will do so through, amongst other commitments, the divestiture of some concrete silos, ceding a supply contract with a major multinational, assisting in developing downstream milling capacity, and providing various business support services to assist the new entity to expand its operations and to become fully operative.

In addition, pursuant to Senwes' commitment to preserve the Suidwes business, Senwes has also indicated to the Commission that it intends investing in the silo infrastructure which is owned by Suidwes. This will have the effect of preserving employment at these silos, and will also benefit the areas in which Suidwes operates.

Furthermore, Senwes confirms that in relation to loading procedures in respect of grain at its silos, Senwes will continue to adhere to its standard operating procedures as well as the JSE SAFEX regulations, and in accordance with these, will still not discriminate between owners of grain in the out-loading of grain from its silos.

The Commission notes that these remedies would provide an opportunity for historically-disadvantaged persons (HDPs) to enter, participate and expand in the grain supply value chain, an industry which currently has minimal participation by HDPs. The proposed remedies will assist to address the unemployment in the area as approximately 950 job opportunities will be maintained. This is line with the recent amendment to the Competition Act, which seeks to, inter alia, "*...strengthen the role of ...merger processes in the promotion of competition and economic transformation...*".

1.2 Government Employees Pension Fund (GEPF) being represented by Public Investment Corporation SOC Limited (PIC)/ Alzu Agri (Pty) Ltd (Alzu Agri)

The Commission has recommended that the Tribunal approve the proposed transaction whereby PIC on behalf of the GEPF intends to acquire Alzu Agri without conditions.

The PIC is an asset management company whose clients are public sector entities such as the GEPF. The PIC holds interest in various listed and unlisted entities on behalf of its clients such as PhilAfrica Foods (PhilAfrica), RCL Foods Ltd (RCL); Berlin Beef (Pty) Ltd (Berlin Beef); and Astral Foods Ltd (Astral).

PhilAfrica focuses on the operation of maize and wheat mills, oilseed crushing and refining plants, and animal feed manufacturing plants. RCL is involved in the production of fresh and frozen poultry products, groceries, distribution, sales solutions, supply chain services and warehousing. Astral Foods on the other hand, is fully integrated within the poultry industry with activities ranging from the manufacturing of animal feeds, broiler genetics, production and sale of day-old chicks, operation of hatcheries as well as an abattoir and processing plants for poultry products.

Alzu Agri, owns and controls various firms within the agricultural industry (jointly “Alzu”). Alzu is a diversified agricultural and agro-processing group that is involved in, amongst others, (i) maize production, (ii) animal feed production, and (iii) cattle and pig breeding or genetics.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.3 Mutodo Properties (Pty) Ltd (Mutodo Properties)/ JD Group Property Holdings (Pty) Ltd (JD Group) in respect of the rental enterprise known as JD House

The Commission has unconditionally approved the proposed merger whereby Mutodo Properties intends to acquire the rental enterprise known as JD House from JD Group.

Mutodo Group is a diverse group of companies with interests in the financial, property and professional services sectors within South Africa. In the property sector, the Mutodo Group focuses on student accommodation, commercial and retail developments. Relevant to the proposed transaction is Mutodo Group’s rentable grade B office space known as 66 Jorissen, comprising 28,100 m². It is located at 66 Jorissen Street, Braamfontein, Johannesburg.

JD Group is a property investment holding company and property development and management company. JD Group is disposing of JD House comprising 13,000 m² of rentable grade B office space with 558 parking bays, situated at 27 Stiemens Street, Braamfontein, Johannesburg.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

1.4 Merck & Co., Inc (Merck & Co.)/ The Anticoccidials Divestment Business of Elanco Animal Health Inc. (Target Business)

The Commission has unconditionally approved the proposed merger whereby Merck & Co. intends to acquire the Target Business.

The Elanco Group develops and markets animal health and animal food products. In South Africa, the Target Business comprises the relevant rights, including intellectual property, assets and contractual or distribution rights that have effect in or relate to South Africa, to allow MSD AH to supply the Vecoxan product in South Africa.

The Target Business does not include any firms in South Africa.

The Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any relevant markets. The Commission further found that the proposed transaction does not raise any public interest concerns.

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

2.1 Julie Patricia Hannah v City of Johannesburg – Rates Department

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

2.2 Kai Hellerman obo Powertools Repairs v Dietmar Bothner obo Metabo Powertools South Africa

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

2.3 Dr Engeline Zwane v Polokwane Municipality (CashPower) Electricity

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

2.4 Lebo Mohotji v Eagles Valley Poultry (Pty) Ltd

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

2.5 Roxanne Stephanie Campbell v First National Bank

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

2.6 MZANSIWOAN v ICASA, The National Treasury, The Parliament of the Republic of South Africa and The Department of Communications, Telecommunications and Postal Services

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

2.7 Gert Kruger v Crowd 1 <http://crowd1.com>

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

2.8 Pranita Bala v Harlod (Harry)

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

2.9 Kgosietsile Wycliff Moipolai v The Unlimited Financial Services & M-Sure Tyre Insurance

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

2.10 Clifton Ben Smith v Bloemfontein Crankshaft

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

[ENDS]

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