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**22 February 2016**

**The Tribunal approves the merger between Tegeta and Optimum subject to conditions**

The Competition Tribunal has approved the merger between Tegeta Exploration and Resources and Optimum Coal Mine (OCM), today (Monday, 22 February 2016) subject to a condition relating to employment. The condition prohibits merger specific retrenchments and imposes a set of monitoring condition on the parties.

The Tribunal at a hearing last week, (Wednesday 17 February) asked the Competition Commission and the merging parties to clarify the draft condition that they had agreed upon, particularly relating to possible job losses. The two could not reach agreement on all the terms.

The conditions that the Tribunal has adopted contains an amalgam of both suggestions. The definition of merger specific is that proposed by the merging parties, while the monitoring conditions largely mirror the proposal suggested by the Commission.

The Tribunal also received further written submissions from Eskom and the draft business plan prepared by the Business Rescue Practitioners.  Confidentiality has been claimed on the contents of both documents. Nevertheless, the Panel did not feel that either submission materially altered what had been stated in public at the hearing.

The Tribunal will issue written reasons for its decision which will explain its approach more fully.

Tegeta Investments is jointly owned by Oakbay Investments, a company run by the Gupta family, and Mabengela Investments.

Tegeta and OCM are involved, among other things, in the production of thermal coal that is largely supplied to Eskom power stations. OCM is controlled by Optimum Coal Holdings, and these companies are presently in business rescue.

The Commission, employment concerns aside, found that the merger was unlikely to lessen competition in the market, as they were relatively small players when compared with rivals such as Anglo American and Exxaro Coal.

The Commission is concerned, however, about possible job losses that could arise from the deal and have recommended conditions be imposed on the deal to prevent merger specific job losses.

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