****

**OUTCOME OF TRIBUNAL ROLL FOR WEDNESDAY, 31 AUGUST 2016**

|  |  |  |
| --- | --- | --- |
| Type of matter | Parties involved | Competition Commission’s recommendation to Tribunal |
| Large merger | Rebosis Property Fund Ltd And Billion Group (Pty) Ltd in Respect of Billion Property developments (Pty) Ltd, Bay West City (Pty) Ltd, Billion Asset Managers (Pty) Ltd and Billion Property Services (Pty) Ltd | Approval without conditions |
| Large merger | Billion Property Group (Pty) Ltd And Bay West City (Pty) Ltd | Approval without conditions |
| Large merger  | Rosewild Trade and Invest (Pty) Ltd And Chlor-Alkali Holdings (Pty) Ltd | Approval without conditions |
| Large merger  | The Bidvest Group Ltd And Brandcorp Holdings (Pty) Ltd | Approval without conditions |
| Exception application | Casalinga Investments CC t/a Waste Rite and Competition Commission | Exception application |
| Settlement agreement | Competition Commission And South African Pelagic Fish Processors Association | Settlement agreement |

**Rebosis merger with four companies in the Billion Group approved**

The merger of listed company Rebosis, a real estate investment trust, and Billion Group (Pty) Ltd, in respect of four companies: Billion Property Developments (Pty) Ltd; Bay West City (Pty) Ltd; Billion Asset Managers (Pty) Ltd and Billion Property Services (Pty) Ltd, was approved by the Competition Tribunal.

Post-merger Rebosis will control the acquired firms. It has a property portfolio made up of office, retail and industrial properties located throughout the country.

The Billion Group, a black-owned company, is controlled by the Amatola Family Trust. Billion Property Developments and Bay West City own two shopping centres, namely Forest Hill Shopping Centre in Centurion, Gauteng and Baywest Mall, Port Elizabeth. Billion Asset Managers is an asset management service provider, which manages Billion Group and Rebosis property portfolio.

In the Eastern Cape the Commission had found the closest acquiring firm’s property is located more than 200km away from one of the target properties, Baywest Mall, so there was no geological overlap between properties in that province.

In Gauteng the Commission had said the closest acquiring firm’s property is located more than 30km away from Forest Hill Mall and there is competition from Brooklyn Mall, Menlyn Mall and others. Also, Forest Hill Mall, one of the Target Firms, has competition in the Pretoria centres such as Centurion Mall, Mall@Reeds and Mall of Africa amongst others, so there was no geographical overlap in the Gauteng province either.

The Commission found the merger would also have a positive impact on black economic empowerment (BEE) shareholding in the target firms.

**Approved merger will see black-owned Billion Group acquire Eastern Cape Mall**

The Tribunal has approved the unconditional merger between Billion Property Group, a subsidiary of property development company Billion Group (Pty) Ltd, and Bay West City (Pty) Ltd (“Bay West City”) which owns the target property Baywest Mall.

The Mall is situated in Port Elizabeth, Eastern Cape. The merger would see Billion Property Group gain sole ownership.

While the merging parties both own retail space in the Eastern Cape, the Commission is of the view that the merger would not lessen competition in that province.

**Rosewild Trade and Invest merger with Chlor-Alkali Holdings given approval**

Acquiring firm Rosewild Trade and Invest (Pty) Ltd is a wholly-owned subsidiary of Investec Equity Partners Portfolio 1 (Pty) Ltd (IEPP1), which is ultimately controlled by listed company Investec Ltd. The merging party is Chlor-Alkali Holdings (Pty) Ltd (CAH). The merger was approved without conditions by the Tribunal.

IEPP1 already has some holding in CAH.

Both companies are involved in the manufacture, import and distribution of chemicals. Of concern to the Commission was the overlap between the merging companies in the supply of dense soda ash, light soda ash, caustic soda flakes and flocculants. Commission said, however, its investigation revealed there was sufficient competition in the market to allow the merger to be approved without conditions.

**Bidvest Group to merge with Brandcorp Holdings**

The Tribunal has approved without conditions the merger between acquiring firm is listed company Bidvest Group Ltd (“Bidvest”), and the target firm Brandcorp Holdings (Pty) Ltd (“Brandcorp”), controlled by Ethos Private Equity Fund V.

Bidvest and Brandcorp are both distributors of various products which are used for different purposes in numerous industries such as agricultural, construction, engineering, industrial and mining. Bidvest and Brandcorp are not involved in the manufacturing of these products but source them from local and international suppliers.

The Commission recommended the unconditional approval of the merger despite finding horizontal overlaps in the business activities of the merging parties in the market for the wholesale and distribution of the following products: electric power tools, general tools and hardware, locks, water pumps, generators, fasteners and fittings, tapes, table and kitchenware, personal protective clothing and general lighting.

It had determined, however, that there is sufficient competition in the market to ensure that the merger will not impact on customers.

**Tribunal to consider Casalinga Investments’ exception application**

The Tribunal today (31 August) heard an exception application from Casalinga Investments, trading as Waste Rite, against the Competition Commission’s founding affidavit that Waste Rite had engaged in price fixing and collusion, as well as another supplier of plant and equipment hire in respect of waste management had engaged in price fixing and collusion.

The Tribunal is considering the exception application and a decision will be issued in due course.

Waste Rite argued that the affidavit does not contain information to support the Commission’s allegations against it.

The Commission, in its affidavit, relied on the fact that pricing schedules submitted by Waste Rite and another company contained the same prices for three consecutive years.

The Commission referred a complaint to the Tribunal alleging WR and Crossmoor Transport were involved in collusive tendering by colluding and submitting fixed prices to a tenderer contravening the Competition Act Section 4(1)(b)(i)/(ii).

**Pelagic Fish Association admits to price fixing and market division**

A settlement agreement between the South African Pelagic Fish Processors Association (SAFPPA) and the Commission was confirmed by the Tribunal. In terms of the agreement, SAFPPA has agreed to pay a penalty for its part in the price fixing and market division in relation to pelagic fish.\*

The penalty with SAFPPA follows a complaint initiated by the Commission in 8 July 2008, and amended in 2012 and 2013 to include additional companies.

In this regard the Commission has already concluded agreements with Premier Fishing, (R2,2 million) and over R4 million for Saldanha Foods (Pty) Ltd.

The Commission found that firms who were members of SAFPPA, took a decision in meetings in 1999 and 2010 meetings to implement the historical raw fish price formula as payment for the service of catching raw pelagic fish, and this was implemented by companies in the sector whether they attended that meeting or not.

It also said that during SAPFPA meetings that sensitive information was exchanged between firms.

SAFPPA has admitted to price fixing or dividing the market and has been fined R16 800.00, representing 8% of the association’s annual turnover.

**\*Pelagic fish** live in a water column of coastal, ocean, and lake waters being neither close to the bottom nor near the shore.

Issued by:

Chantelle Benjamin

Communications: Competition Tribunal

Tel (012)394 1383

Cell: +27 (0) 73 007 5603

Twitter: @comptrib

E-Mail: [chantelleb@comptrib.co.za](file:///C%3A%5CUsers%5CGilliand%5CDownloads%5Cchantelleb%40comptrib.co.za)

On Behalf Of:

Lerato Motaung

Registrar: Competition Tribunal

Tel: (012) 394 3355

Cell: +27 (0) 82 556 3221

E-Mail: LeratoM@comptrib.co.za