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**OUTCOME OF TRIBUNAL HEARINGS FOR WEDNESDAY, 28 SEPTEMBER 2016**

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| Type of matter | Parties involved | Competition Commission’s recommendation to Tribunal |
| Large merger | Nissan Motor Co. Ltd And Mitsubishi Motors Corporation | Approval without conditions |
| Large merger | ENX Group Limited And Eqstra Newco | Approval with conditions |
| Large merger  | Tradehold Limited And Imbali Props 21 (Pty) Ltd, Saddle Path Props 69 (Pty) Ltd and Collins Property Projects (Pty) Ltd | Approval without conditions |
| Subpoena challenge  | Glenn Llewellyn Geldenhuis; Maria Manuela Goncalves Da Fonseca; The South African Battery Manufacturers Association And The South African Batteries Importers Association; Hudaco Trading (Pty) Ltd t/a Deltec Power Distributors; Hudaco Trading (Pty) Ltd t/a Specialised Battery Systems; Enertec Batteries (Pty) Ltd; Probe Corporation South Africa (Pty) Ltd; Tiauto (Pty) Ltd t/a YSA |  |

**Merger between Nissan and Mitsubishi Motors Corporation**

The Competition Tribunal has approved the proposed merger between Renault-controlled Nissan Motor Co. Ltd and Mitsubishi Motors Corporation.

Renault SA is jointly owned by Imperial Holdings and Paris-listed Renault, while Mitsubishi is a public company not controlled by a single firm and does not control any firm in SA. Nissan is a Japanese-owned company that is active in the manufacture and supply of vehicles under Nissan, Infinity and Datsun brands. Renault imports its vehicles from plants located outside SA.

In South Africa Mitsubishi distributes automotive parts it manufactures and supplies through the Imperial Holdings dealer network, while Nissan, through Nissan SA, has a production and research and development network and distributes its products through a local dealership network.

The Tribunal has approved the merger without conditions.

The Competition Commission found that the merged entity would face competition from a number of other brands in the sector in which they operate, namely the national market for small cars, sport utility cars and supply of light commercial vehicles.

**Merger of enX Group with newly formed Eqstra Newco**

The Tribunal has approved with conditions the large merger of JSE-listed enX Group and a newly formed entity for the merger, Eqstra Newco, a wholly-owned subsidiary of Eqstra Holdings Ltd.

Eqstra supplies forklifts, cranes, aerial platforms, waste equipment, port terminal tractors, mobile cranes, solar products and cleaning products in SA.

Post-merger, enX would have control of Eqstra Newco.

enX provides industrial energy equipment, consumerables, and related components as well as support services to a range of economic sectors in South Africa and sub-Saharan Africa. It currently supplies woodworking equipment, power products and fuel and chemicals in SA.

The two companies overlap in the broader market for the supply of industrial equipment but the Commission did not see this overlap as significant enough to impede competition in the market.

The Tribunal in its order said that retrenchments cannot exceed the 15 estimated for the next two years.

**Merger of Tradehold and Collins Group**

The Tribunal has approved the large merger whereby Tradehold intends to acquire Imbali Props 21, Saddle Path Props 69 and Collins Property Projects (the Collins Group).

Tradehold comprises investment companies that hold interests in property holding companies that own retail, commercial and industrial properties outside South Africa. In South Africa, Tradehold operates through Mettle Investments and Titan Group Investment.

Collins Property Project is a property management company.

The proposed transaction involves the disposal of a portfolio of properties held by the Collins Group to Tradehold. Imbali Props 21 and Saddle Props 69 will be used to house the Sale properties. In the merger Tradehold will acquire the entire issued share capital of Collins Property Projects.

The Sale Properties consist of industrial, office and retail properties that are located throughout South Africa.

In terms of competition concerns the Commission found that Tradehold has property located in the Western Cape while the target firm’s properties are located in Kwa-Zulu Natal and the Eastern Cape, therefore there is no geographic overlap between the merging parties. Further, there were no employment concerns.

**Chairman of Battery manufacturers’ association challenges Tribunal subpoenas**

The hearing, involving the challenge brought by chairman of the South African Battery Manufacturers’ Association (SABMA) Glenn Llewellyn Geldenhuis and the association secretary Maria Da Fonseca of subpoenas issued against them by the Tribunal on behalf of the South African Batteries Importers Association (SABIA), is still to be concluded.

The subpoenas were issued as a result of a complaint referral filed by SABIA. The Complaint referral to the Tribunal follows from a non-referral that was issued by the Competition Commission.

SABIA alleged in its referral to the Tribunal, amongst other things, that members of SABMA had contravened sections 4(1)(b)(i), 5(1) and 8(c) of the Competition Act, which includes offences such as directly or indirectly fixing a purchase or selling price. The complaint also alleged that they engaged in agreements to lessen competition in the manufacturing of batteries market.

Two of SABMA’s three members have since settled with SABIA and its members, leaving only Donaventa Holdings Pty Ltd, trading as Dixon Batteries.

The applicants, Mr Geldenhuis and Ms De Fonseca, have said the subpoenas issued against them, requiring them to hand over documents, are overbroad and unlawful. Among the reasons that have been put forward to challenge the subpoena is that: SABMA is not cited as a respondent in the main complaint referral; Dixon is the only remaining respondent but the subpoenas still require documents in relation to other SABMA members and that some of the demands go as far back as 1940.

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