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**TRIBUNAL DECISIONS FOR WEDNESDAY, 4 OCTOBER, 2017**

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| Type of matter | Parties involved | Competition Commission’s recommendation to Tribunal | Tribunal decisions |
| Large merger | Dimension Data Protocol BV and Hatch Investments (Maurituis) Limited | Approve with conditions | Approved with conditions |
| Large merger | Government Employees Pension Fund, Unemployment Insurance Fund and Compensation Fund, Duly Represented by Public Investment Corporation SOC And AFGRI Poultry (Pty) Ltd T/A Daybreak Farms | Approve with conditions | Decision forthcoming |
| Large merger | Maersk Line A/S And Hamburg Sudamerikanische Dampfschiffahrts Gesellschaft KG | Approve with conditions | Approved with conditions |
| Large merger | Fidelity Security Services (Pty) Ltd And Analytical Risk Management t/a 2RM Security 9In Business Rescue) and Other Entities Affiliated to 2RM | Approve without conditions | Approved with conditions |
| Large merger | Omnia Group (Pty) Ltd And Umongo Petroleum (Pty) Ltd | Approve without conditions | Approved without conditions |

**Dimension Data Protocol BV merger with Hatch Investments (Maurituis) Limited approved with conditions**

The Tribunal has approved the merger of Dimension Data Protocal BV (Dimension Data) and Hatch Investments (Mauritius) subject to certain conditions.

Hatch is presently jointly controlled by Dimension Data and Adcorp Holdings Limited. Hatch operates through its subsidiary Nihilent Technologies Limited. Nihilent provides enterprise transformation consulting services in South Africa.

Dimension Data is an Information Technology service provider which offers a wide range of IT and communication services including professional, consulting, support, managed, procurement and supply chain services.

As a result of public interest concerns raised by the Commission and the Minister of Economic Development, there will be a moratorium on retrenchments for a specified period. Nihilent will continue its programme to develop skills in the local IT sector.

**Decision pending in PIC merger application for control of Afgri Poultry t/a DayBreak Farms**

The Tribunal is awaiting further documentation with regards to the proposed merger in terms of which PIC, in its capacity as the representative of the Government Employment Pension Fund, Unemployment Fund (UIF) and Compensation Fund (CF), referred to below as the Acquiring group, will acquire control of Afgri Poultry (Afgri Poultry), trading as Daybreak Farms (Daybreak), referred to below as the Target firm.

The various members of the Acquiring group engage in the investment of certain assets, management and administration of pensions and other benefits and compensation of employees emanating from injury or disease through the course of employment, respectively.

Daybreak produces and supplies fresh and frozen poultry products to the South African market. It has an integrated operation with its own feed mill that manufactures and supplies broiler feed.

The Commission had recommended conditional approval in relation to cross-shareholding and other public interest concerns emanating from the proposed transaction.

**Merger between two international shipping companies approved with conditions**

The Tribunal has conditionally approved the merger whereby Maersk Line A/S (“Maersk Line”) will acquire Hamburg Sudamerkianische Dampfschiffahrts-Gesellschaft KG (“HSDG”). The transaction will have an impact on the market for the provision of deep-sea container liner shipping services.

The Maersk Group is an integrated transport and logistics company headquartered in Copenhagen, Denmark. It is involved in the deep-sea container shipping market and is the world’s largest container shipping company. The Maersk Line serves customers in over 200 countries. The Maersk Group also provides tramp services (Note: see below for reference) for the transportation of refined oil products.

Although Maersk Line does not provide tramp services to South Africa, it has provided tramp services to South African customers. The Maersk Group is however active in the provision of container liner shipping and freight forwarding services across various South African trade routes.

Dr. Oetker is a multinational family owned firm headquartered in Bielefeld, Germany, whilst HSDG also headquartered in Germany is the seventh largest container shipping line in the world. The Oetker Group is involved in various sectors such as food and beverage production, banking and shipping.

HSDG is also active in the provision of tramp services. HSDG has no subsidiaries in South Africa and is only represented through branch and third agency offices. The only subsidiary of the Dr. Oetker Group in South Africa is through the production and distribution of pizza and other frozen convenience foods.

The transaction are subject to a condition whereby the merging parties must terminate any cooperation agreements HSDG has in the South Africa/East Coast South America trade route. The parties have not opposed the condition.

* **Tramp services** do not have a fixed route. The ships goes from one port to another depending up on the cargo availability.

**Merger of security companies approved subject to conditions**

The Tribunal has conditionally approved the merger between Fidelity Security Services (Pty) Ltd, (“Fidelity”) and Analytical Risk, trading as 2RM Security (“2RM”), and some related entities.

This merger will give Fidelity, a wholly-owned subsidiary of Fidelity Security Group, control over the target companies.

The relevant market is the provision of guarding services and the regional market for technology and electronics.

The Acquiring Group’s key areas of business include Monitoring and Response, Cash-in-Transit services, cash handling devices, cash processing services, guarding and electronic solutions.

The Target Group is active in the private security sector, and is primarily active in the provision of guarding services.

This is a business rescue transaction, whereby Fidelity intends to acquire control of 2RM. A moratorium has been played on retrenchments for a specified period.

**Tribunal has approved the merger between Omnia Holdings and Umongo Petroleum**

The Tribunal has approved the merger between Omnia and Umongo Petroleum (Pty) Ltd (“Umongo”).

The Acquiring firm, Omnia Group, controls a number of firms in South Africa (SA), Mauritius and Namibia and comprises an agricultural division, a supplier of mining chemicals and explosives, and further imports monoethylene gycol (MEG). The Omnia Group only started to supply base oils in 2015. Omnia Group does not supply lubricants, additive or speciality products supplied by the Target firm, Umongo. Post-merger Omnia Group will control Umongo.

Umongo is a distributor of additives, base oils and other related petroleum, oil lubricants, speciality products and finished products in RSA and Sub-Saharan Africa (SSA). Umongo supplies small quantities MEG. Umongo supplies Group I base oils, white oils and other types of oils.

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