# COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No.: 017707**

In the matter between

**PPC Limited** — Primary Acquiring Firm

and

**Safika Cement Holdings Pty (Ltd)** — Primary Target Firm

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| Panel | : | Yasmin Carrim (Presiding Member)<br>Takalani Madima (Tribunal Member)<br>Andiswa Ndoni (Tribunal Member) |
| Heard on | : | 11 December 2013 |
| Order issued on | : | 12 December 2013 |
| Reasons issued on | : | 15 January 2014 |

## Reasons for Decision

## Approval

[1] On 12 December 2013 the Competition Tribunal ("Tribunal") unconditionally approved the merger between PPC Limited ("PPC") and Safika Cement Holdings (Pty) Ltd ("Safika").

[2] The reasons for approving the proposed transaction follow.

**Parties to transaction**

[3] The primary acquiring firm is PPC, which is incorporated in terms of the laws of South Africa and is listed on the Johannesburg Stock Exchange ("JSE"). One of its shareholders is the Public Investment Corporation ("PIC"), which also has an interest in Afrisam South Africa (Pty) Ltd ("Afrisam"). PPC is a manufacturer of cement in Southern Africa. PPC also produces aggregates, metallurgical-grade lime, burnt dolomite and limestone. PPC has also recently acquired a ready-mixed concrete business and has been producing and selling concrete as well as road building aggregates for a number of years. PPC has seven plants located in Gauteng, North West, Eastern Cape and a depot located at Saldanha in the Western Cape.

[4] PPC's product range includes Ordinary Portland Cement ("OPC") in the 52.5N strength category for specialised application for infrastructural building purposes and the 42.5N[1] "Surebuild" general-purpose cement. PPC also currently markets 32.5N cement for road construction called "Sureroad" that is marketed for use specifically in road construction.[2]

[5] The primary target firm is Safika which is also incorporated in terms of the laws of South Africa. Safika has five blending operations in Gauteng which are located in Isando, Kya Sands, Pretoria, Stormill and Meyerton. Safika blends 32.5N strength cement used for general building applications and supplies it in bagged form to retailers. Safika's blended cement is supplied under the "*IDM Bestbuild*" and "*Castle*" brands, which have wide applications ranging from domestic use, to concrete, to certain limited types of building projects. Safika also blends private label blended cement for the Build It Group.[3]

[6] Safika has a five-year exclusive supply contract with PPC for the supply of all its OPC requirements. It is through this contract that PPC toll blends cement for Safika in the Western and Eastern Cape.[4]

[1] The 42.5N blended cement is truly a blend in composition and can sometimes be classified as OPC and can be used for the same purpose depending on the desired specification of the end-product.
[2] See para 2.1.5 page 149 of the Merger record.
[3] See para 8.4 page 175 of the Merger record.
[4] Ibid at para 8.5.

**Proposed transaction and rationale**

[7] The proposed transaction involves the acquisition by PPC of 64.3% shares in the share capital of Safika. Post-merger PPC will control Safika.

[8] During the hearing Mr Richard Tomes ("Mr Tomes") on behalf of PPC testified that the main rationale for the proposed transaction is to strengthen the already existing good, long standing relationship between Safika and PPC. [5]

**Competition assessment**

[9] The proposed transaction results in a horizontal as well as a vertical overlap.

[10] The vertical overlap emanates from the toll blending agreement between PPC and Safika. The Commission submitted that this overlap will not result in any negative competition results as Safika currently sources all its OPC requirements from PPC and this arrangement will continue post-merger.[6]

[11] The Commission identified two possible horizontal relevant product markets, namely the narrow market for 32.5N blended cement and the broader blended cement consisting of 42.5N and 32.5N.

[12] The Commission concluded on the relevant geographic market to be regional consisting of inland, KwaZulu-Natal ("KZN"), Eastern Cape and Western Cape with the presence of imports in the coastal regions.

Narrow 32.5N market

[13] Safika and PPC both manufacture the 32.5N blended cement. However the Commission found through its interaction with market participants that the 32.5N manufactured by Safika differed significantly in terms of quality and applications from the 32.5N manufactured by PPC. PPC's 32.5N blended cement is used predominantly for road construction, whilst Safika's 32.5N blended cement is used for general building applications.

[5] See para 10 page 13 of the Transcript of hearing.
[6] See para 20 page 2 of Transcript of hearing.

[14] Furthermore, PPC does not supply 32.5N in the inland, KZN, Eastern Cape and Western Cape with the presence of imports in the coastal regions.[7] Thus no geographical overlap arises. For these reasons, no substantive competition concerns arise in the narrower 32.5N product market.

Broader 32.5N and 42.5N market

[15] The Commission identified the broader product market for blended cement consisting of 32.5N and 42.5N. The reason for assessing the transaction on the basis of the broader market was because the Commission's investigation revealed that there was a one-way substitution between the two in respect of some applications (general building). Nevertheless this substitutability is limited by the price of the 42.5N which is a bit higher than the 32.5N and the quality of the 42.5N which is of better strength quality than the 32.5N. Applications such as civil constructions specifically require the 42.5N blended cement due to its high strength quality and others such as plastering could use both the 32.5N and the 42.5N blended cement.[8].

[16] In the inland region the post -merger market share in the broad blended cement market is less than 30% with a market share accretion of less than 10%. There are no substantial anti-competitive effects as post- merger the merged entity will continue to face competition from other players in the market such as Lafarge, Afrisam and independent blenders.

[17] In the KZN region the post- merger market share is less than 12% with a market share accretion of less than 4%. Again the merged entity post- merger will continue to face competition from other market players such as Lafarge, NPC Afrisam as well imports.

[18] In the Eastern Cape region the post -merger market share is less than 18% with a market share accretion of less than 7%. In this region the merged entity will face sufficient competition from players such as Afrisam, NPC and imports form Lucky Cement and Alpine.

[7] See para 8.4.2 page 27 of the Commission's report.
[8] See para 15 page 4 of the Transcript of hearing.

[19] In the Western Cape region the post- merger market share is 82%. However this is effectively a pre-merger market share as PPC is not active in the Western Cape region. The transaction does not therefore result in a change in the competitive landscape in that region. The Commission submitted further that in as much as post-merger market shares in the Western Cape region are high, it's investigation into possible unilateral effects, revealed that the merged entity will be constrained by new entrants and imports from Pakistan in the Western Cape region.[9]

[20] Afrisam who is a competitor to the merging parties recently entered the Western Cape market, with an approximate market share of less than 15% in the Western Cape region. Afrisam is also in the process of commissioning a manufacturing plant in the Western Cape area which is likely to be operative in mid- 2014. In addition to this, customers of the merging parties in the Western Cape approached by the Commission submitted that Afrisam is actually cheaper than PPC in the Western Cape region.[10] This coupled with the presence of imports in the Western Cape region, re-assured the Commission that post-merger the merged entity will be constrained by alternative players in the region.

[21] The Commission also assessed whether the proposed transaction would have any co-ordinated effects in the Western Cape region, given the history of collusion in the region. The Commission also took into account the fact that PIC is a common shareholder for both PPC and Afrisam, and came to the conclusion that this will not have a negative impact on competition or the possible exchange of commercially sensitive information, as PIC's shareholding in PPC is a non-controlling shareholding. In addition to this, PPC and Afrisam have separate boards and no common director on the boards of the two firms.[11]

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[9] See para 15 page 6 of Transcript of hearing.
[10] See page para 9.2 page 35 of the Commission's report.
[11] See para 10 page 7 of Transcript of hearing.

## Public interest

[22] The proposed transaction will have no adverse effect on employment and the proposed transaction raises no other public interest concerns.[12]

## CONCLUSION

[23] We are satisfied with the findings of the Commission and thus approve the merger unconditionally.

**Ms. Yasmin Carrim**

**15 January 2014**
**DATE**

**Dr Takalani Madima Ms. Andiswa Ndoni concurring**

Tribunal Researcher: Caroline Sserufusa
For the merging parties: Anthony Norton of Nortons Inc.
For the Commission: Xolela Nokele

[12] See page 102 of Merger record.