



## OUTCOME TRIBUNAL HEARING -WEDNESDAY, 25 OCTOBER, 2017

Type of matter	Parties involved	Competition Commission's recommendation to Tribunal	Tribunal decision
Consent agreement	Competition Commission And AECI Ltd; Foskor (Pty) Ltd; Omnia Fertilizers Ltd; Sasol South Africa (Pty) Ltd	Confirm settlement agreement	Waiting for further documentation
Large merger	Main Street 1522 (Pty) Ltd and Main Street 1523 (Pty) Ltd And Ahead Trading (Pty) Ltd and Six Sense Marketing (Pty) Ltd	Approve without conditions	Approved without conditions
Large merger	Libstar Operations (Pty) Ltd And Sonnendal Dairies (Pty) Ltd	Approve with conditions	Approve with conditions
Large merger	Golden Tree Asset Management LP And Peermont Holdings (Pty) Ltd.	Approve without conditions	Approve without conditions

### **Tribunal has requested further documentation before considering an agreement relating to price fixing for the sale of ammonia**

The Tribunal is awaiting further documents with regard to a proposed settlement agreement involving AECI, Foskor, Omnia Fertilizers and Sasol South Africa for making use of a pricing formula by which they would sell each other ammonia should the parties fail to agree on a purchase price.

The Competition Commission launched a complaint on 9 July 2012 of price fixing against the four firms. Investigation showed that there was a cost-saving benefit to the respondents jointly storing their ammonia stock at RAMM as it was the only such storage facility in Richards Bay.

In terms of the agreement made with the Commission the four companies will remove the clause from the partnership agreement. The Commission proposed that should the parties be unable to reach a bilateral agreement on the purchase price of ammonia, the requesting party shall be entitled to withdraw the requisite amount of ammonia from the RAMM facility on a loan basis, provided that the same amount of ammonia is returned to the facility by the requesting party in four months.

There is no admission of a contravention of the Competition Act and no administrative penalty has been sought in the proposed settlement but there is a requirement that should the Consent Agreement be confirmed by the Tribunal, the respondents would circulate the document to relevant employees and managers within 14 days of confirmation of the Consent Agreement and that the parties refrain from agreeing amongst themselves on a formula for the price at which ammonia is sold between the four firms.

### **Sanlam Life-owned company acquires the KFC business and advertising business in the Western and Northern Cape**

Tribunal has approved a merger whereby Main Street 1522 and Mains Street 1523 ultimately controlled by Sanlam Life Assurance Ltd will acquire the KFC businesses from Ahead Trading and the marketing business from Six Sense operating in the Western and Northern Cape

Ahead Trading operates the 28 outlets in those province, while Six Sense operates the Marketing Business which performs marketing functions for KFC Business. Ahead Trading runs also has interests in livestock farming.

The merger has been approved by the Tribunal without conditions.

### **Tribunal has conditionally approved merger of Libstar Operations with Sonnendal Dairies**

The Tribunal has approved with a condition the merger of Libstar Operations, with interest in firms that manufacture, import and distribute fast moving consumer goods in the food and beverage households and personal care, with target firm Sonnendal Dairies from Sontic Holdings Western Cape.

Libstar is a holding company, controlled by private equity funds, and controls a number of companies in South Africa. The Libstar Group focuses on supplying the food service industry, private label segments of larger retailers, and on the manufacturing of products for brand owners as well as branded products.

Sonnendal Dairies manufacturer and distributor of dairy and related products. Its main offering is yoghurt but it also manufactures and distributes a range of fruit juice products. Post-merger Libstar will control Sonnendal Dairies.

Following its investigation into the proposed transaction, the Commission was of the view that the restraint of clause in the agreement was unreasonable in that it prevented Sonnendal from competing nationally. Commission said that in its current form that agreement was likely to substantially prevent or lessen competition.

The Tribunal approved the condition whereby Sonnendal will continue to operate in the Western Cape where it predominantly operates, but will be prevented from operating nationally for a three year period.

### **Merger between GoldenTree and MIC Leisure and casino operator Peermont**

The Tribunal has approved a transaction without conditions whereby GoldenTree Asset Management LP (GoldenTree) and MIC Leisure (Pty) Ltd (MIC Leisure) will acquire additional shares in Peermont and thereby exercise joint control over Peermont.

GoldenTree, an American company, is an employee owned asset management firm specialising in credit opportunities across high yield bonds, leveraged loans, distressed debt, structured products, emerging markets and credit-themed equities. GoldenTree does not have investments in any companies in South Africa that compete with Peermont.

MIC Leisure forms part MIC Group. MIC Leisure is a wholly owned subsidiary of the Mineworkers Investment Company (RF) (Pty) Ltd (MIC) which is, in turn, controlled by Mineworkers Investment Trust. The MIC Group invests in cash generative and growth assets that allow it to pay a sustainable dividend to MIT to fund social upliftment programs for energy and construction workers, and their dependents.

Peermont is a hotel and casino operator and controls eight casinos in South Africa. Peermont currently has a number of shareholders, none of whom controls Peermont. Through Peermont Global and various subsidiaries, Peermont is a casino and hotel operator in South Africa and Botswana.

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