



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: IM002Apr19

In the matter between:

Rebel Packaging (Pty) Ltd **First Applicant**

Seyfert Corrugated Western Cape (Pty) Ltd **Second Applicant**

and

The Competition Commission **Respondent**

In re the intermediate merger between:

Rebel Packaging (Pty) Ltd **Acquiring Firm**

and

Seyfert Corrugated Western Cape (Pty) Ltd **Target Firm**

Panel: T Ngcukaitobi (Presiding Member)

T Vilakazi (Tribunal Member)

A Ndoni (Tribunal Member)

Heard on: 20 November 2023

Last submission on: 21 November 2023

Decided on: 1 December 2023

ORDER

Further to the merging parties' consideration application in terms of section 16(1)(a) of the Competition Act, 1998 ("the Act") the Competition Tribunal orders that–

1. the merger between the abovementioned parties be approved in terms of section 16(2)(b) of the Act subject to the conditions attached as **Annexure A**; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 34(a).

1 December 2023

Prof Thando Vilakazi

Date

Concurring: Ms Andiswa Ndoni and Adv Tembeka Ngcukaitobi SC



competitiontribunal
SOUTH AFRICA

Merger Clearance Certificate

Date : 01 December 2023

To : Norton Incorporated

Case Number: IM002Apr19

Rebel Packaging (Pty) Ltd And Seyfert Corrugated Western Cape (Pty) Ltd

Notice CT 10

About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 20 business days.

You applied to the Competition Commission on **19 December 2018** for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act or was the subject of a Request for consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

no conditions.

the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- b) the approval was obtained by deceit.
- c) a firm concerned has breached an obligation attached to this approval.

Contacting the Tribunal

The Competition Tribunal
Private Bag X24
Sunnyside
Pretoria 0132
Republic of South Africa
tel: 27 12 394 3300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

The Registrar, Competition Tribunal

ANNEXURE A

1. DEFINITIONS

The following terms have the meaning assigned to them below, and related expressions have corresponding meanings –

- 1.1 **“Acquiring Firm”** means Rebel Packaging Proprietary Limited and its ultimate holding company, Mpact Limited. At the time of the filing of the merger, Rebel and Mpact were incorporated in terms of the laws of South Africa with their principal places of business at 4th Floor, 3 Melrose Boulevard, Melrose Arch, Gauteng, South Africa;
- 1.2 **“Approval Date”** means the date on which the Tribunal issues a clearance certificate in terms of the Competition Act;
- 1.3 **“Commission”** means the Competition Commission of South Africa;
- 1.4 **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission issued in terms of section 21 of the Competition Act;
- 1.5 **“Competition Act”** means the Competition Act No. 89 of 1998, as amended;
- 1.6 **“Conditions”** means these Conditions;
- 1.7 **“Days”** means business days, being any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.8 **“Merger”** means the acquisition of joint control over the Target Firm by the Acquiring Firm;
- 1.9 **“Merger Parties”** means Rebel and Seyfert;

- 1.10 **“Rebel”** means Rebel Packaging Proprietary Limited which at the time of the filing of the merger was incorporated in terms of the laws of South Africa with its principal place of business at 4th Floor, 3 Melrose Boulevard, Melrose Arch, Gauteng, South Africa;
- 1.11 **“Seyfert”** means Seyfert Western Cape Proprietary Limited which at the time of the filing of the merger was incorporated in terms of the laws of South Africa and had its principal place of business at the corner of Henshilwood Road and Neil Hare Road, Atlantis, Cape Town, Western Cape, South Africa;
- 1.12 **“South Africa”** means the Republic of South Africa;
- 1.13 **“Target Firm”** means Seyfert;
- 1.14 **“Tribunal”** means the Competition Tribunal of South Africa;
- 1.15 **“Tribunal Rules”** means Rules for the Conduct of Proceedings in the Tribunal.

2. CONDITIONS TO THE APPROVAL OF THE MERGER

- 2.1. The Acquiring Firm will increase its shareholding in Seyfert to more than 50% to enable it to obtain the forms of control defined in sections 12(2)(a), (b) and (c) of the Competition Act, thereby forming a single economic entity or dispose of its shareholding in Seyfert.
- 2.2. The increase in shareholding referred to in clause 2.1 shall be notified to the Commission as a merger and the Commission will be notified within six months of the confirmation of the settlement agreement between the Commission and Mpact (under case number C0157Feb20) as a consent order by the Tribunal.

- 2.3. If the Acquiring Firm disposes of its shareholding in Seyfert, it will conclude such an agreement within six months of the confirmation of the settlement agreement between the Commission and Mpact (under case number C0157Feb20) as a consent order by the Tribunal.

3. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 3.1. The Commission may request such information from the Acquiring Firm which the Commission from time to time regards as necessary for the monitoring of compliance with these Conditions.

4. APPARENT BREACH

- 4.1. An apparent breach by the Acquiring Firm of the Conditions shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

5. VARIATION

- 5.1. The Acquiring Firm may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, amended and/or the time period for fulfilment of the Conditions extended. Should a dispute arise in relation to the variation of the Conditions, the Acquiring Firm shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, amended and/or the time period for fulfilment to be extended as aforementioned.

6. GENERAL

- 6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za