



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no.: IM196Mar22/INT017Apr22

In the intervention application between:

MPACT OPERATIONS (PTY) LTD Applicant

And

CORRUSEAL GROUP (PTY) LTD First Respondent

NEOPAK HOLDINGS (PTY) LTD Second Respondent

COMPETITION COMMISSION OF SOUTH AFRICA Third Respondent

In re the intermediate merger between:

CORRUSEAL GROUP (PTY) LTD Primary Acquiring Firm

And

NEOPAK HOLDINGS (PTY) LTD Primary Target Firm

Panel : A Wessels (Presiding Member)
: M Mazwai (Tribunal Member)
: L Mncube (Tribunal Member)

Heard on : 22 June 2022

Decided on : 27 June 2022

ORDER

Having heard the parties, the Competition Tribunal ("Tribunal") makes an order in the following terms:

- 1 The applicant, Mpact Operations (Pty) Ltd, is granted leave to intervene in the consideration of the intermediate merger proceedings before the Tribunal under the abovementioned case number in terms of section 53(1)(c) of the Competition Act.

- 2 The applicant's participation in the proceedings shall be limited to the following issues or theories of harm:
 - 2.1 That the proposed transaction will increase the concentration of the 100% recycled containerboard market with the result that there will be a substantial lessening or prevention of competition in this market.

 - 2.2 That the proposed transaction will give rise to input foreclosure in the corrugated board and corrugated packaging market (the corrugating market) in that the customers of Corruseal Group (Pty) Ltd ("Corruseal") and Neopak Holdings (Pty) Ltd will be foreclosed from access to the merging parties' 100% recycled containerboard, whether on the terms that they currently enjoy or at all, in consequence of the merging parties supplying their 100% corrugated containerboard to Corruseal's corrugator activities, and Corruseal expanding its corrugator activities.

 - 2.3 That the proposed transaction will result in co-ordinated effects in the corrugating market in that Corruseal will have the incentive and power, from its increased supply of sheetboard to the Everest Group, to exercise disciplining power over the Everest Group in the corrugating market.

(collectively the "**Scope of Intervention**")

- 3 Subject to the Scope of Intervention, the applicant's participation in the merger proceedings shall include the right to:
 - 3.1 attend pre-hearing conferences, if any are held before the merger hearing;
 - 3.2 have access to, and to inspect, the Competition Commission's record in respect of the merger and any additional documents filed by the merger parties or other participants in the merger proceedings, provided that any confidential information contained in the Commission's record and/or the additional documents shall, unless otherwise directed by the Tribunal, be disclosed only to the applicant's legal representatives and economic experts and on the condition that they provide appropriate undertakings to respect and protect confidentiality;
 - 3.3 request the Tribunal to direct, summon and/or order any person to appear at the merger hearing and/or to produce documents relevant to the merger hearing;
 - 3.4 participate in any interlocutory proceedings in respect of the merger hearing;
 - 3.5 adduce oral and documentary evidence at the merger hearing, including an economic expert witness;
 - 3.6 cross-examine any of the witnesses testifying on behalf of the merger parties and any other participants in the merger hearing; and

- 3.7 present argument at the merger hearing.
- 4 The applicant's rights granted in paragraph 3 above will be subject to:
- 4.1 any limitations on their exercise imposed by the Tribunal from time to time during the course of the proceedings; and
- 4.2 adherence by the applicant to any timetable set by the Tribunal for the proceedings before it in respect of the merger.
- 5 The Commission must, subject to the appropriate confidentiality undertakings, provide the applicant with the confidential record of its proceedings within five business days of this order.
- 6 There is no order as to costs.

**Presiding Member
Mr A Wessels**

27 June 2022

Date

Concurring: Ms Mondo Mazwai and Prof. Liberty Mncube