



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM178Jan23

In the matter between:

Commercial Cold Holdings (Pty) Ltd

Primary Acquiring Firm

And

Sequence Logistics Holdings (Pty) Ltd

Primary Target Firm

Panel : S Goga (Presiding Member)
: F Tregenna (Tribunal Panel Member)
: M Mazwai (Tribunal Panel Member)
Heard on : 02 June 2023
Decided on : 09 June 2023

Order

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) 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 hereto as Annexure A; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal rule 35(5)(a).

Presiding Member
Ms Sha'ista Goga

09 June 2023

Date

Concurring: Prof. Fiona Tregenna and Ms Mondo Mazwai



competitiontribunal
SOUTH AFRICA

Merger Clearance Certificate

Date : 09 June 2023

To : ENSafrica Attorneys

Case Number: LM178Jan23

Commercial Cold Holdings (Pty) Ltd And Sequence Logistics Holdings (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 **12 January 2023** 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

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ANNEXURE A: CONDITIONS

IN THE LARGE MERGER INVOLVING

COMMERCIAL COLD HOLDINGS PROPRIETARY LIMITED

AND

SEQUENCE LOGISTICS HOLDINGS PROPRIETARY LIMITED

CC CASE NUMBER: 2023JAN0021

CONDITIONS

1. DEFINITIONS

- 1.1 **“Acquiring Firm”** means Commercial Cold Holdings Proprietary Limited;
- 1.2 **“Acquiring Group”** means the Acquiring Firm and all its subsidiaries including Commercial Cold Storage Group Limited, as well as all the firms that directly and indirectly control it including Africa Infrastructure Investment Managers Proprietary Limited, and Old Mutual Limited;
- 1.3 **“Act”** means the Competition Act 89 of 1998, as amended;
- 1.4 **“Approval Date”** means the means the date the Tribunal issues a Clearance Certificate (Notice CT10) in terms of the Act;
- 1.5 **“Commission”** means the Competition Commission of South Africa;
- 1.6 **“Commission Rules”** mean the Rules for the Conduct of Proceedings in the Commission;
- 1.7 **“Conditions”** mean, collectively, the conditions referred to in this document;
- 1.8 **“Days”** mean business days, being any day other than a Saturday, Sunday, or official public holiday in South Africa;
- 1.9 **“Implementation Date”** means the date, occurring after the Approval Date on which the Merger is implemented by the Merger Parties;

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- 1.10 **“Merger”** means the Acquiring Firm’s acquisition of 100% of the issued share capital of the Target Firm;
- 1.11 **“Merger Parties”** means the Acquiring Group and the Target Firm;
- 1.12 **“Moratorium Period”** means a period of 2 (two) years from the Implementation Date and, in addition, includes the period between the Approval Date and the Implementation Date;
- 1.13 **“South Africa”** means the Republic of South Africa;
- 1.14 **“Target Firm”** means Sequence Logistics Holdings Proprietary Limited, as well as all its subsidiaries including Sequence Logistics Proprietary Limited;
- 1.15 **“Tribunal”** means the Competition Tribunal of South Africa; and
- 1.16 **“Tribunal Rules”** means Rules for the Conduct of Proceedings in the Tribunal;

CONDITIONS

2. EMPLOYMENT

- 2.1 The Merger Parties shall not retrench any employee as a result of the Merger, for the duration of the Moratorium Period.
- 2.2 For avoidance of doubt, Merger specific retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act, 66 of 1995; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

3. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 3.1 The Merger Parties shall circulate a copy of the Conditions to all employees, relevant trade unions and employee representatives within 5 (five) Days of the Approval Date.
- 3.2 As proof of compliance with clause 3.1, the Merger Parties will within 10 (ten) Days of circulating the Conditions, submit to the Commission an affidavit by a senior official of the

Acquiring Firm attesting to the circulation of the Conditions and provide a copy of the notices that were circulated to the employees and trade unions.

- 3.3 As proof of compliance with clause 2, the Merger Parties shall submit a report on an annual basis to the Commission within 3 months after the anniversary of the Implementation Date detailing compliance with these Conditions, for a period of 2 (two) years following the Implementation Date.
- 3.4 The Acquiring Firm shall inform the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.

4. **APPARENT BREACH**

- 4.1 In the event that the Commission receives any complaint in relation to non-compliance with the Conditions, or otherwise determines that there has been a breach by the Merger Parties of the Conditions, the breach will be dealt with in terms of Rule 37 of the Tribunal Rules read together with Rule 39 of the Commission Rules.

5. **VARIATION**

- 5.1 The Commission and/or Merger Parties may at any time, on good cause shown, apply to the Tribunal for the Conditions to be lifted, revised, or amended.

6. **GENERAL**

- 6.1 All correspondence in relation these Conditions must be submitted to the following email addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za