



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No.: LM111Oct24

In the matter between:

Nikisize (Pty) Ltd

Primary Acquiring Firm

And

Autozone Holdings (Pty) Ltd (In Business Rescue)

Primary Target Firm

Panel: I Valodia (Presiding Member)
T Vilakazi (Tribunal Member)
A Ndoni (Tribunal Member)

Heard on: 09 December 2024

Decided on: 10 December 2024

ORDER

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b)(ii) of the Competition Act, 1998 (“the Act”) the Competition Tribunal orders that—

1. the merger between the abovementioned parties be approved subject to the conditions set out in “**Annexure A**” in terms of section 16(2)(b) of the Act; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 35(5)(a).

Signed by: Imraan
Signed at: 2024-12-10 10:28:18 +02:00
Reason: Witnessing Imraan

Imraan Valodia

**Presiding Member
Prof. Imraan Valodia**

10 December 2024

Date

Concurring: Prof. Thando Vilakazi and Ms Andiswa Ndoni



competitiontribunal
SOUTH AFRICA

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.

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

Merger Clearance Certificate

Date : 10 December 2024

To : Webber Wentzel Attorneys

Case Number: LM111Oct24

Nikisize (Pty) Ltd And Autozone Holdings (Pty) Ltd (In Business Rescue)

You applied to the Competition Commission on **09 October 2024** 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

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

The Registrar, Competition Tribunal

Tebogo H. Mphahlele

ANNEXURE A

NIKISIZE PROPRIETARY LIMITED

AND

AUTOZONE HOLDINGS (PTY) LTD (IN BUSINESS RESCUE)

COMPETITION TRIBUNAL CASE NUMBER: LM111OCT24

CONDITIONS

1. DEFINITIONS

- 1.1 **"Acquiring Firm"** means Nikisize and includes the Metair Group;
- 1.2 **"Act"** means the Competition Act, 89 of 1998, as amended;
- 1.3 **"Affected Employees"** means the [REDACTED] employees of the [REDACTED] who were employed at stores identified as [REDACTED];
- 1.4 **"Approval Date"** means the date referred to on the Tribunal's merger clearance certificate (Form CT 10), being the date on which the Merger is approved in terms of the Competition Act;
- 1.5 [REDACTED]
- 1.6 [REDACTED]
- 1.7 **"AutoZone"** means AutoZone Holdings Proprietary Limited (in Business Rescue);
- 1.8 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act;
- 1.9 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission;

- 1.10 **"Conditions"** means these conditions;
- 1.11 **"Competitively Sensitive Information"** means information of a customer or supplier, as the case may be, that is not in the public domain, which is specific or precise, and which is or may reasonably be expected to be commercially sensitive from a competition perspective relating to: current, planned or future pricing; margins; costs; business plans or strategies; customer information including plans for approaching customers or bidding for customer contracts; and marketing policies, plans, studies or forecasts;
- 1.12 **"Day"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.13 [REDACTED]
[REDACTED]
- 1.14 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties;
- 1.15 **"Labour Relations Act"** means the Labour Relations Act, 66 of 1995 (as amended);
- 1.16 **"Merger"** means the transaction in terms of which the Acquiring Firm will acquire 100% of the issued shares in the Target Firm;
- 1.17 **"Merger Parties"** means collectively the Acquiring Firm and the Target Firm;
- 1.18 **"Metair Group"** means Metair Investments Limited and all firms it controls (directly or indirectly) in terms of section 12(2) of the Act;
- 1.19 **"Moratorium Period"** means a period of [REDACTED] months from the Implementation Date and, in addition, includes the period between the Approval Date and the Implementation Date;
- 1.20 **"Nikisize"** means Nikisize Proprietary Limited;
- 1.21 [REDACTED]
[REDACTED]
- 1.22 **"Target Firm"** means AutoZone;

- 1.23 **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act; and
- 1.24 **"Tribunal Rules"** means the Rules for the Conduct of Proceedings in the Tribunal.

2. CONDITIONS

EMPLOYMENT

- 2.1 The Merger Parties shall not retrench any employees of the Target Firm as a result of the Merger for the duration of the Moratorium Period.
- 2.2 For the avoidance of doubt, 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; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; (vi) terminations in the ordinary course of business, including but not limited to dismissals as a result of misconduct (including breaches of employment terms, conditions and guidelines, unlawful, inappropriate, criminal conduct or similar grounds of misconduct) or poor performance; and (vii) any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.
- 2.3 For the duration of the Moratorium Period, the [REDACTED] shall keep a record of the Affected Employees. In the event that employment opportunities arise within the [REDACTED] [REDACTED] shall notify the Affected Employees of those employment opportunities and give first preference to the Affected Employees who apply for such employment opportunities, taking into account all relevant considerations including qualifications, skills, know-how, experience and location.

INFORMATION SHARING

- 2.4 The Merger Parties shall ensure that Competitively Sensitive Information is not shared between AutoZone and any entity within the Metair Group engaged directly in the manufacture and supply of automotive components and batteries. This will be achieved through the operation of appropriate information barriers, including physical, electronic, and procedural measures.
- [REDACTED]

2.5 [REDACTED]
[REDACTED]
[REDACTED]

2.6 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2.7 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3. MONITORING

3.1 The Merger Parties shall inform the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.

3.2 The Merger Parties shall, within 10 (ten) Days of the Implementation Date, circulate a non-confidential version of the Conditions to the employees of the Target Firm. As proof of compliance herewith, the Target Firm shall, within 10 (ten) Days of circulating the non-confidential version of the Conditions, submit to the Commission an affidavit deposited to by a senior official of the Target Firm, attesting to such compliance.

3.3 Within 30 (thirty) Days of each anniversary of the Approval Date, for a period of 3 (three) years, the Merger Parties shall submit a detailed written report to the Commission confirming compliance with the Conditions. Such report shall be accompanied by an affidavit deposited to by a senior official of the Target Firm attesting to the contents of the report.

3.4 The Commission may at any time request any other documentation or information it deems necessary to monitor compliance with the Conditions.

3.5 [REDACTED] or any employee of AutoZone, who believes that the Merger Parties have not complied with or have acted in breach of the Conditions may approach the Commission.

4. APPARENT BREACH

4.1 Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by

the Merger Parties of these Conditions, the breach 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 Merger Parties and/or the Commission may at any time, on good cause shown and on notice to the other, apply to the Tribunal for any of the Conditions to be waived, relaxed, modified or substituted. Any party affected by a proposed variation (including [REDACTED]) shall be notified of any variation application and be afforded a reasonable opportunity to participate in any resultant proceedings.

6. GENERAL

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

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]