

## DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 1355

17 OCTOBER 2019

## COMPETITION COMMISSION

## NOTIFICATION TO PROHIBIT THE TRANSACTION INVOLVING:

REBEL PACKAGING (PTY) LTD

AND

SEYFERT CORRUGATED WESTERN CAPE (PTY) LTD

2018DEC0046

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the Rules for the Conduct of Proceedings in the Competition Commission, that it has prohibited the transaction involving the above-mentioned firms:

1. On 21 December 2018, the Competition Commission (Commission) was notified of a prior implemented merger whereby Rebel Packaging (Pty) Ltd (Rebel) acquired control over Seyfert Corrugated Western Cape (Pty) Ltd (Seyfert) in 2011 without notifying the Commission as required by section 13A of the Competition Act of 1998 (the Act).
2. The primary acquiring firm is Rebel, a firm incorporated in accordance with the company laws of the Republic of South Africa (South Africa). Rebel is a wholly owned subsidiary of Mpact Limited (Mpact).
3. The primary target firm is Seyfert, a firm incorporated according to the company laws of South Africa.

***Activities of the parties***

4. Mpact is a paper and plastics packaging manufacturer with operations in South Africa, Mozambique, Namibia and Botswana. The business involves the production of paper and plastic packaging products, and recycling (of both paper and plastic). Mpact's paper business comprises three parts, each of which operates at a different level of the paper and paper packaging value chain.
5. Mpact Recycling is active in the collection and purchase of pre- and post-consumer recyclable paper through various paper pick-up programmes including commercial, kerbside, school, church, community, housing complex and office programmes. Mpact Recycling also purchases recyclable paper from recyclable material traders. Mpact's paper manufacturing operations produce a range of intermediate paper products such as cartonboard and containerboard.
6. Mpact's corrugated and converted paper products operations are active in the production of printed and unprinted concerted corrugated and other paper products including corrugated packaging, corrugated boxes, die-cut cases, folded glued cases and others.
7. Seyfert operates as a sheet plant and is based in Atlantis near Cape Town in the Western Cape. Sheet plants purchase corrugated sheet board from corrugating facilities and convert this board into corrugated packaging, corrugated boxes and other finished products.

### **Overlap**

8. The activities of the merged parties result in both a horizontal and vertical overlap in relation to the manufacturing and supply of finished corrugated boxes and corrugated packaging. The Commission considered the following the relevant markets:
  - 8.1. The upstream market for the manufacture and supply of corrugated boards in the Western Cape; and
  - 8.2. The downstream market for the manufacture and supply of corrugated boxes and packaging in the Western Cape.

### **Competition Assessment**

9. The Commission found that Mpact currently has an estimated market share of between 20 - 25% and Seyfert an estimated market share of 2 - 5% based on the sales volumes in 2017 with a combined market share of 22 - 30% in the downstream market for the manufacture and supply of corrugated boxes and packaging in the Western Cape.
10. The merged entity continues to be constrained by firms such as New Era, Corroseal Tekco and others who operate in the Western Cape Province.

#### ***Vertical assessment***

11. Regarding input foreclosure, the Commission considered the merged entities' ability to exercise market power in the market for the manufacture of corrugated board, therefore foreclosing its rivals in the downstream market for the supply of corrugated packaging. The Commission found that Mpact does not appear to have the ability to foreclose the downstream competitors.
12. About customer foreclosure; the Commission found that the merger did not have an impact on any upstream competitors of Mpact.

#### ***Coordinated effects***

13. The Commission considered the transactions impact on coordination in the market as there are several cartel investigations in the corrugated packaging markets. Evidence before the Commission indicates that the prior implemented merger was used as a platform for collusion and the formation of a cartel with likely contravention of section 4(1) b of the Competition Act. Therefore, the Commission concluded that the prior implemented merger resulted in a substantial prevention or lessening of competition within the corrugated packaging market.

#### ***Efficiencies***

14. Given the nature of the anti-competitive concerns this merger raises, namely collusion which is a *per se* prohibition in terms of section 4(1)(b) of the Act, there are no efficiencies that can justify the merger.

#### ***Remedies***

15. Given the nature of the anti-competitive concern this merger raises, namely collusion which is a *per se* prohibition in terms of section 4(1)(b) of the Act, there is no remedy that could

alleviate it. In order to address this concern, the Commission prohibits the merger. Further, since the merger has been implemented already, the Commission orders a divestiture of Mpact's 49% share in Seyfert.

***Public interest***

16. The merged parties submit that the 2011 transaction did not raise public interest concerns.

***Conclusion***

17. The Commission prohibits the proposed transaction. The Commission further orders a divestiture of the 49% shareholding that Mpact acquired in Seyfert.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3755, or Facsimile: (012) 394 4755.