

NOTICE 296 OF 2012**COMPETITION COMMISSION****NOTIFICATION TO CONDITIONALLY APPROVE THE TRANSACTION INVOLVING:****EVONIK INDUSTRIES AG****AND****MAIZEY (PTY) LTD AND AMPAGLAS (PTY) LTD AND MAIN STREET 902 (PTY) LTD****CASE NUMBER: 2011DEC0422**

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 approved the transaction involving the above mentioned firms subject to conditions as set out below:

The first acquiring firm is Evonik Industries AG ("Evonik"), a private company with limited liability incorporated in terms of the laws of Germany. Evonik is a worldwide chemical manufacturer and supplier of plastics. The second acquiring firm is Maizey (Pty) Ltd ("Maizey"), a private company with limited liability incorporated in terms of the laws of South Africa. Maizey is a distributor of plastic products in South Africa.

The first target firm is Ampaglas Plastics Group (Pty) Ltd ("Ampaglas"), a private company with limited liability incorporated in terms of the laws of South Africa. Ampaglas is a manufacturer and supplier of extruded acrylic products within South Africa. The second target firm is Main Street 902 (Pty) Ltd ("Newco"), a newly incorporated private company with limited liability incorporated in terms of the laws of South Africa.

There is both a horizontal and vertical dimension to this transaction. However, the vertical dimension falls away because Maizey has withdrawn from the transaction.

The relevant upstream market is that for the manufacturing and supply of cast and extruded Polymethyl Methacrylate ("PMMA") acrylic sheets and is a national market with significant imports. The relevant downstream market is that for the distribution of general plastics, including cast and extruded PMMA acrylic sheets and is national in scope.

Ampaglas competes with Evonik in South Africa for the supply of PMMA extruded acrylic sheeting, as the Ampaglas Acrilan brand competes with Evonik's Plexiglas brand. Ampaglas does not compete with Evonik in the cast acrylic segment.

Upon approval of this transaction, a new company will be formed (Newco) which will act as a special purpose vehicle for Evonik and Ampaglas. Evonik will have a controlling interest of [REDACTED] and Ampaglas an interest of between [REDACTED]. Before its withdrawal, Maizey was to have an interest of between [REDACTED]. The merging parties have confirmed that Evonik will now have a controlling interest of [REDACTED] and Ampaglas an interest of [REDACTED].

Therefore post-merger, Ampaglas and Evonik will no longer operate PMMA product lines within their individual businesses or distribute these within Southern Africa. These products, made up of cast acrylic (imported by Evonik) and extruded acrylic (manufactured by Ampaglas and imported by Evonik), will now be housed within Newco. Thus, these two companies will not compete in the market for PMMA products. Ampaglas will continue to manufacture its other plastic product lines post-merger independently of Newco. Newco will manufacture extruded acrylic and import the cast acrylic from Evonik in Germany. The Commission has placed a condition upon the merger in this regard in order to ensure that Newco does not expand its business into any other product lines that its parent companies are currently active in without notifying the Commission first. The condition applies for a period of two years. The merging parties have agreed to this condition.

In terms of the horizontal dimension, the estimated market share of the merged entity based on volumes and sales in 2010 and 2011 [REDACTED]

[REDACTED] Even though extruded acrylic can be imported by large distributors as import tariffs are very low, these do not provide a perfect substitute to local

production for various reasons including the scale required to import, the lead times required and fluctuations in the exchange rate. The Commission therefore found that the proposed transaction is likely to substantially lessen or prevent competition upstream, in the manufacturing of PMMA products, especially extruded acrylic which is the only market where Ampaglas competes with Evonik.

The merging parties have also claimed that the pairing of Ampaglas and Evonik will create considerable efficiencies. The Commission has analysed the transaction and concluded that it will have positive results at least in terms of making a South African company more competitive internationally and positively influence the PMMA sector within South Africa in terms of innovation. The Commission therefore found that the efficiencies that will be realised as a result of this merger outweigh any likely competition concerns. Views of third parties also confirm that this merger will provide a much needed boost to Ampaglas, which is struggling financially.

In terms of public interest, this transaction will also boost local production capacity of PMMA, and the plastics sector, such that the local market is more competitive.

There were also competition concerns in relation to the addition of Maizey, the largest distributor in the country, as a party to this transaction. However following a meeting with the Commission on 9 March 2012 regarding possible conditions that the Commission intended to impose on Maizey, Maizey formally withdrew from the transaction on 12 March 2012. The Commission has agreed with the merging parties that a condition will be imposed for Maizey to divest its stake in this transaction.

Although the transaction is likely to lead to a substantial lessening of competition in the manufacturing and supply of PMMA, the efficiencies and public interest benefits outweigh the likely negative effect on competition.

The Commission therefore approves this merger subject to conditions set out below:

1. Conditions

- 1.1. Newco shall be obliged to notify the Commission in the event that it elects to extend its product range, if the new product range includes product currently produced, sold or distributed by the merging parties in South Africa.
- 1.2. Maizey shall divest its 15% shareholding within Newco with immediate effect.

2. Monitoring

- 2.1. Newco shall submit an affidavit by a senior official indicating the current product markets in which it is operating and whether any new products have been introduced. The affidavit will be submitted annually, effective from 1st of April 2013.
- 2.2. Within 1 month of the Approval Date, Newco shall submit an affidavit by a senior official attesting to the compliance of the condition in paragraph 3.2.
- 2.3. The Merging Parties shall submit the reports referred to in paragraph 3 above by e-mail to mergerconditions@compcom.co.za.

3. Duration

The condition in 3.1. will apply for a period of 2 years from the date of the Commission's approval.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.
