

NOTICE 293 OF 2013**COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****EATON CORPORATION****AND****COOPER INDUSTRIES PLC****CASE NUMBER: 2012SEP0536**

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 primary acquiring firm is Eaton Corporation ("Eaton"), a public company incorporated in accordance with the laws of Ohio and listed on the New York Stock Exchanges. Eaton is not controlled by any firm. Eaton owns several firms throughout the world. Eaton is a diversified industrial company. In South Africa, Eaton is active in four main business units, namely electrical; hydraulics; vehicles; and aerospace.

The primary target firm is Cooper Industries plc ("Cooper"), a public company incorporated in accordance with the laws of Ireland and listed on the New York Stock Exchange. Cooper is not controlled by any single firm. Cooper controls several firms throughout the world. In South Africa, Cooper only controls Cooper Industries SA LLC. Cooper is a manufacturer of electrical equipment. Cooper manufactures two main categories of products, namely energy and safety solutions. Cooper does not have a manufacturing facility in South Africa and imports all of its products for sale in South Africa through its distributors.

The Commission found that the proposed transaction is unlikely to raise significant competition concerns as the accretion in market shares is insignificant. Further, there are other players in

the market that compete with the merging parties which will be in a position to constrain any potential anti-competitive behaviour by the merging parties.

With respect to vertical relationship between the parties, the Commission found that the proposed transaction is unlikely to result in foreclosure concerns.

With respect to public interest concerns, the Commission found that the proposed transaction is likely to have a negative impact on employment since it is likely to result in job losses on the employees of an independent distributor of Cooper as post-merger, Eaton is likely to use its own distribution network to distribute fuses. In order to address this concern, the Commission decided to impose a condition on the merged entity to continue using independent distributors. The merging parties have agreed to this condition.

The Commission accordingly approves the proposed transaction subject to the following conditions that addresses the public interest concerns.

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1. **"Acquiring Firm"** means Eaton Corporation;
- 1.2. **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC15);
- 1.3. **"Commission"** means the Competition Commission of South Africa;
- 1.4. **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.5. **"Conditions"** means these conditions;
- 1.6. **"Cooper"** means Cooper Industries Plc, the primary target firm;
- 1.7. **"Eaton"** means Eaton Corporation, the primary acquiring firm;
- 1.8. **"Independent Distributor"** means a third party distributor of fuses currently used by

Cooper Industries Plc;

- 1.9. **"Merger"** means the acquisition of control over Cooper Industries Plc by Eaton Corporation; and
- 1.10. **"Merging Parties"** means Eaton Corporation and Cooper Industries Plc.

2. Recordal

The Commission finds that the proposed transaction is unlikely to raise significant competition concerns as the accretion in market shares is insignificant. Further, there are other players in the market that compete with the Merging Parties which will be in a position to constrain any potential anti-competitive behaviour by the Merging Parties. However, the proposed transaction is likely to have a negative impact on the employees of an Independent Distributor of Cooper as post-merger, Eaton is likely to use its own distribution network to distribute fuses.

3. Conditions to the approval of the merger

- 3.1. The Merging Parties shall continue using Independent Distributors of Cooper for fuses in South Africa on the same terms and conditions.

4. Monitoring of compliance with the Conditions

- 4.1. The Merging Parties shall circulate a copy of the Condition to Independent Distributors within 7 days of receipt of the merger clearance.
- 4.2. As proof of compliance hereof, Eaton or Cooper shall within 5 days of circulating the condition, submit an affidavit to the Commission by a senior official attesting to the circulation of the condition.
- 4.3. The Merging Parties shall submit a report to the Commission on a (6) six month basis from the Approval Date confirming compliance with respect to 3.1. The first report shall be submitted on 01 February 2013.

- 4.4. The reports and/or documents referred to in paragraph 4.2 and 4.3 shall be submitted to the following e-mail address mergerconditions@compcom.co.za.
- 4.5. An apparent breach by Eaton or Cooper of any of the Conditions shall be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Commission.
- 4.6. The Commission may on good cause shown by the Merging Parties, lift, revise or amend these Conditions.

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.