

NOTICE 294 OF 2013**COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****FOODPROP PROPERTY HOLDINGS (PTY) LTD****AND****ACUCAP INVESTMENTS (PTY) LTD IN RESPECT OF THE LETTING PROPERTY KNOWN
AS RONDEBOSCH-ON-MAIN****CASE NUMBER: 2012JUL0383**

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 Foodprop Property Holdings (Pty) Ltd ("FoodProp"), a company incorporated in terms of the laws of the Republic of South Africa. Foodprop does not control any subsidiary, directly or indirectly. Foodprop is controlled by Foodprop Investment Holdings (Pty) Ltd. Foodprop owns retail centres in South Africa.

The primary target firm is Acucap Investments (Pty) Ltd in respect of the letting property known as Rondebosch-on-Main, ("Acucap") in respect of the property letting enterprise known as Rondebosch-on-Main, a company incorporated in terms of the laws of the Republic of South Africa. Acucap controls the convenience centre (target property) Rondebosch-On –Main.

In terms of the Sale Agreement entered into between the parties, Foodprop is acquiring from Acucap the property letting enterprise known as Rondebosch-on-Main, which comprises a retail neighbourhood centre with a GLA of 6199m situated in Rondebosch, Cape Town.

There is a horizontal overlap in the activities of the merging parties in the market for provision of retail properties, specifically convenience centres. However, the Commission found that none of

the target properties overlap geographically with the retail properties held by the acquiring firm. The Commission concludes that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition as there is no geographic overlap.

There is a concern pertaining to the exclusivity clause contained in the lease agreement between Pick n' Pay and Acucap. The Commission found that the exclusivity clauses have the effect of excluding rivals of Pick n' Pay from the centre with the implication that small businesses are prevented from competing effectively in the centre. In order to address the concern, the Commission negotiated with the merging parties to have the exclusivity clause removed as the exclusivity clause could not be justified. The Commission imposed a condition to have the exclusivity clause removed from the lease agreement upon renewal.

The Commission therefore approves the proposed transaction subject to the following condition:

Condition

- 1 FoodProp shall negotiate with Pick n' Pay in respect of Rondebosch-on-Main lease agreement, in utmost good faith to have the exclusivity clauses in the lease agreement in respect of the target property, removed at the renewal of the lease.

Monitoring of compliance with the conditions

- 2 Foodprop shall within thirty (30) days after entering into the new or renewed lease agreement in respect of the centre, provide the Commission with a report setting out in detail the extent to which they have complied with the conditions of removing the exclusivity clause.

All documents or correspondences in relation to these conditions must be submitted to the following email address: mergerconditions@compcom.co.za

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.