

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NO. 2530****23 September 2022****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****A2 INVESTMENT PARTNERS (PTY) LTD****AND****NOVUS HOLDINGS LIMITED****CASE NUMBER: 2021OCT0037**

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 abovementioned firms subject to conditions as set out below:

1. On 22 October 2021, the Competition Commission ("Commission") received a notice of an intermediate merger whereby A2 Investment Partners (Pty) Ltd ("A2 Investment") intends to acquire control over Novus Holdings Limited ("Novus").
2. The parties indicate that A2 Investment currently has 37.55% shareholding in Novus (comprising 18.92% directly together with 18.62% of the shares managed on behalf of Peresec Prime Brokers (Pty) Ltd ("Peresec"). Given that A2 Investment holds 37.55% of the voting rights in Novus a mandatory offer has been triggered in terms of the Companies Act, No. 71 of 2008 (as amended) in terms of which a cash offer will be made by A2 Investment to all Novus shareholders for the acquisition of additional shares in Novus.
3. In terms of the structure of the proposed transaction, A2 Investment intends to acquire additional shares and voting rights in excess of 50% in Novus. The merging parties indicate

that A2 Investment intends on acquiring additional shares in Novus through (i) a “Mandatory Offer” and/or (ii) an “Open Market Purchase” as described in detail below:

3.1. **Mandatory Offer:** A2 Investment will offer cash to the existing shareholders of Novus to acquire their respective shareholdings. Depending on how many Novus shareholders accept the cash offer, A2 Investment could acquire shares in excess of half the issued share capital in Novus, which may likely afford them *de facto* or *de jure* control. The Mandatory Offer is envisaged to close on 11 February 2022; and

3.2. **Open Market Purchase:** Given that the Mandatory Offer presents the possibility that A2 Investment may not acquire any additional shares in Novus, A2 Investment will proceed to acquire shares in Novus on the Open Market following the expiry of the Mandatory Offer. If this happens, A2 Investment will have control over Novus in terms of the Competition Act.

4. Upon the implementation of the proposed transaction, A2 Investment will control Novus. However, the Commission highlights that the Mandatory Offer is likely to close on 11 February 2022. However, the merging parties indicate that should A2 Investment fail to acquire control through the Mandatory Offer, this will trigger an Open Market Purchase which does not have any specified timeframes as to when control in Novus will be acquired. Given the uncertainty in terms of the time period for the change of control, the merging parties have agreed to a condition that: (i) Should A2 Investment acquire *de facto* and or *de jure* control over the Target Firm before 24 months of the approval date, A2 Investment shall inform the Commission of its acquisition within 20 (twenty) business days of establishing control clearly indicating whether A2 Investment acquired *de facto* or *de jure* control; and (ii) Should A2 Investment establish *de jure* and/or *de facto* control over Novus after 24 months of the approval date, A2 Investment shall notify the acquisition of the *de facto* and/or *de jure* control as separate mergers in terms of section 13A of the Competition Act, to the extent that the thresholds for an intermediate or large merger are met. The conditions are attached hereto as “**Annexure A**”

5. The primary acquiring firm is A2 Investment, a company incorporated in accordance with the laws of South Africa. A2 Investment is jointly controlled by Marble Head Investments (Pty) Ltd

(75%) ("Marble Investments") and Zariv Investments (Pty) Ltd (25%) ("Zariv Investments"). Marble Investments is in turn controlled by André van der Veen while Zariv Investments is controlled by Adrian Zetle. A2 Investment, and all firms directly and indirectly controlled by André van der Veen and Adrian Zetle shall be referred to as the "Acquiring Group". The Acquiring Group is an investment firm with a diversified portfolio in various industries such as sports betting, construction, agriculture and technology industries.

6. The primary target firm is Novus. Novus is not controlled by any individual shareholders. The following are its major shareholders Peresec Prime Brokers (Pty) Ltd ("Peresec") 18.98%; A2 Investments (17.43%); Ninety-One (11.98%) and Value Capital Partners (10.41%). Novus controls in excess of 10 (ten) firms which includes amongst others Paarl Media Holdings (Pty) Ltd; Paarl Coldset (Pty) Ltd and Latiano 554 (Pty) Ltd. Novus and all the firms it directly or indirectly control shall be referred to as the "Target Group". The Target Group is a commercial printing, manufacturing and packaging business with eight specialised printing plants and a tissue plant in South Africa. The Target Group provides a range of printing and packaging services, as well as tissue production. These printing services include printing solutions for newspapers, magazines, retail inserts, commercial material, labels and books.

Relationship between the parties/ products (horizontal / vertical)

7. The Commission assessed the activities of the merging parties and found that the proposed transaction does not give rise to a horizontal overlap as the Acquiring Group does not provide products or services that are functionally substitutable with those of the Target Group. In addition, there is no vertical overlap between the activities of the merging parties as the merging parties currently do not supply any products and/or services to each other.
8. Considering the above, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.

Public interest

9. The proposed transaction does not raise any public interest concerns.

10. Considering the above, the Commission concludes that the proposed merger is unlikely to substantially prevent or lessen competition in any market. The Commission also found that the proposed merger is unlikely to raise public interest concerns.
11. Given the uncertainty in respect of the time period in relation to the acquisition of control over Novus by A2 Investment, the merging parties agreed to a condition that should A2 Investment establish *de jure* and/or *de facto* control over Novus after 24 months of the approval date, A2 Investment shall notify the acquisition of the *de facto* and/or *de jure* control as separate merger(s) in terms of section 13A of the Competition Act. The Commission therefore approves the proposed transaction with conditions. The conditions are attached hereto as **Annexure A**.

ANNEXURE A
A2 INVESTMENT PARTNERS (PTY) LTD
AND
NOVUS HOLDINGS LIMITED
CASE NUMBER: 2021OCT0037

CONDITIONS

1. DEFINITIONS

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

- 1.1. “Acquiring Firm”** means A2 Investment Partners (Pty) Ltd
 - 1.2. “Approval Date”** means the date referred to in the Commission’s decision;
 - 1.3. “Business Day”** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
 - 1.4. “Commission”** means the Competition Commission of South Africa;
 - 1.5. “Companies Act”** means Companies Act 71 of 2008 (as amended);
 - 1.6. “Competition Act”** means the Competition Act 89 of 1998 (as amended);
 - 1.7. “Conditions”** means these conditions;
 - 1.8. “Mandatory Offer”** means the mandatory offer in terms of section 123 of the Companies Act to purchase Novus shares from the current shareholders of Novus which is anticipated to expire on 11 February 2022;
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- 1.9. **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.10. **“Open Market Purchase”** means the purchase of the Novus shares in the open market following the expiry of the Mandatory Offer;
- 1.11. **“Target Firm”** means Novus Holdings Limited;
- 1.12. **“Tribunal”** means the Competition Tribunal of South Africa;
- 1.13. **“Tribunal Rules”** means the Rules for the Conduct of Proceedings in the Competition Tribunal.

2. RECORDAL

- 2.1. On 22 October 2021, the Commission received notice of an intermediate merger in terms of which the Acquiring Firm intends on acquiring control over the Target Firm.
- 2.2. The Commission notes that the Mandatory Offer could possibly provide the Acquiring Firm with *de facto* control over the Target Firm and fall short of *de jure* control over the Target Firm. Additionally, it is possible that the Acquiring Firm could move from *de facto* control to *de jure* control as a consequence of the Open Market Purchase which is not clear in terms of timing.
- 2.3. Given the uncertainty in terms of the time periods for the acquisition of control, the merging parties and the Commission agreed to a condition in clause 3 below

3. CONDITIONS

- 3.1. Should the Acquiring Firm acquire *de facto* and/or *de jure* control over the Target Firm within 24 (twenty-four) months of the Approval Date, the Acquiring Firm shall inform the Commission of its acquisition within 20 (twenty) business days of establishing control clearly indicating whether the Acquiring Firm acquired *de facto* or *de jure* control. For the sake of clarity, the Acquiring Firm is entitled to acquire both *de facto* and *de jure* control over the Target Firm within 24 (twenty-four) months after the Approval Date.
- 3.2. Should the Acquiring Firm fail to establish *de jure* and/or *de facto* control over the Target Firm within 24 (twenty-four) months of the Approval Date, the Acquiring Firm shall notify the acquisition of any subsequent acquisition of control as separate mergers in terms of section 13A of the Competition Act, to the extent that the thresholds for an intermediate or large merger are met.

4. MONITORING OF COMPLIANCE WITH THE CONDITION

- 4.1. The Acquiring Firm shall notify the Commission of the Implementation Date within 5 (five) Business Days.
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- 4.2. The Acquiring Firm shall inform the Commission of the acquisition referred to in 3.1 by submitting an affidavit deposed to by the Chief Executive Officer.
- 4.3. Where applicable, the Acquiring Firm shall notify the Commission of the merger envisaged under 3.2 in the prescribed manner in terms of the Competition Act.

5. BREACH

- 5.1. If the Commission receives any complaint concerning non-compliance with the Conditions or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules read with Rule 37 of the Tribunal Rules.

6. VARIATION

- 6.1. The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised or amended. Should a dispute arise concerning the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised or amended.

7. GENERAL

- 7.1. All correspondence in relation to these Conditions must be submitted to the following email addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

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