

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NO. 5381****4 October 2024****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****MAIN STREET 2000 (PTY) LTD****AND****MIX TELEMATICS LTD****CASE NUMBER: 2023NOV0037**

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 set out below:

1. On 21 November 2023, the Competition Commission ("Commission") received notice of an intermediate merger wherein PowerFleet Inc ("PowerFleet") through Main Street 2000 (Pty) Ltd ("Main Street") intends to acquire the entire issued ordinary share capital of MiX Telematics Ltd ("MiX Telematics"). Post-merger, Main Street will own and control 100% of Mix Telematics.
2. The primary acquiring firm is Main Street. Main Street is a newly incorporated company established for the purposes of the proposed transaction. Main Street is controlled by PowerFleet, a company incorporated in the State of Delaware, United States of America.
3. In South Africa, PowerFleet controls Main Street and The Pointer SA (Pty) Ltd (Pointer SA). PowerFleet and its subsidiaries will collectively be referred to as the Acquiring Group. The Acquiring Group does not have any shareholding held by Historically Disadvantaged Persons (HDPs).

4. The primary target firm is MiX Telematics, a public company listed on the JSE Limited ("JSE"). The shares in MiX Telematics are widely held, and no shareholder controls MiX Telematics. MiX Telematics controls several firms. MiX Telematics and its subsidiaries will collectively be referred to as the "Target Group".
5. The merging parties submit that 3.57% of MiX Telematics shareholding is held by HDPs.
6. In South Africa, the Acquiring Group operates through Pointer SA. Pointer SA is a provider of commercial fleet management and asset tracking solutions. The company was established in 1998 and has longstanding experience and expertise in designing and developing telematics solutions enabling businesses to manage their fleets, assets, deliveries, and on-the-road employees.

Competition analysis

7. The Commission considered the activities of the merging parties and found that the proposed presents a horizontal overlap in market for the provision of stolen vehicle recovery, vehicle tracking and fleet management telematics solutions in South Africa.
8. Despite the overlap, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market/s.

Public interest analysis

Effect on employment

9. The merging parties did not provide any firm statement that the merger will not result in any retrenchments or job losses. The merging parties submitted that PowerFleet will only be in a position to conduct the necessary due diligence exercises in relation to the employment following the implementation of the proposed transaction. In this regard, the merging parties agreed to a 24-month moratorium on merger related retrenchments. See Annexure A.

Effect on the promotion of a greater spread of ownership by historically disadvantaged persons and workers section 12 A(3)(e)

10. With respect to greater spread of ownership, the Commission requested the merging parties to propose remedies to ensure that the merger promotes greater spread of

ownership by HDPs and workers in firms in the market. In this regard, the parties agreed to the following condition:

- 19.1. Within **[CONFIDENTIAL]** months of the implementation date of the proposed transaction, the Merger Parties shall conclude an HDP Transaction and/or the ESOP. The HDP Transaction means a sale of at least **[CONFIDENTIAL]**% of the issued share capital of MiX Telematics Africa. The ESOP commitment entails the establishment of an ESOP to acquire a **[CONFIDENTIAL]**% interest in MiX Telematics Africa.
- 19.2. Should the Merging Parties instead opt to implement a combination of the ESOP and the HDP Transaction, the minimum combined value of the ESOP and HDP Transaction must be **[CONFIDENTIAL]**% of the issued share capital of MiX Telematics Africa, an intermediate holding company, or subsidiary thereof.
20. The Commission is of the view that the remedies tendered by the parties, render the merger justifiable on substantial public interest grounds.
21. The proposed merger does not raise any other public interest issues.
22. The Commission approves the proposed transaction subject to the conditions attached as **Annexure A** hereto.

ANNEXURE A**MAINSTREET 2000 PROPRIETARY LIMITED****AND****MIX TELEMATICS LIMITED****CASE NUMBER: 2023NOV0037**

CONDITIONS

1 DEFINITIONS

- 1.1 The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings, namely:
- 1.1.1 **"Act"** means the Competition Act No. 89 of 1998 (as amended);
- 1.1.2 **"Acquiring Firm"** means Mainstreet 2000 Proprietary Limited;
- 1.1.3 **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC 15);
- 1.1.4 **"Commission"** means the Competition Commission of South Africa;
- 1.1.5 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.1.6 **"Conditions"** means these conditions;
- 1.1.7 **"Days"** mean business days in South Africa;
- 1.1.8 **"ESOP"** means the establishment of a [CONFIDENTIAL]% employee share ownership programme within [CONFIDENTIAL] months from Implementation Date in MiX Telematics Africa, an intermediate holding company, or a subsidiary thereof.
- 1.1.9 **"HDPs"** mean historically disadvantaged persons, as contemplated in section 3(2) of the Act;
- 1.1.10 **"HDP Transaction"** means a sale of [CONFIDENTIAL]% of the issued share capital of MiX Telematics Africa, an intermediate holding company, or a

subsidiary thereof, to HDP shareholder(s) within **[CONFIDENTIAL]** months from Implementation Date.

- 1.1.11 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.1.12 **"Qualifying Workers"** means all HDP Workers of the Target Group's South African subsidiaries;
- 1.1.13 **"Mainstreet 2000"** means Mainstreet 2000 Proprietary Limited;
- 1.1.14 **"Mix Telematics"** means Mix Telematics Limited;
- 1.1.15 **"MiX Telematics Africa"** means MiX Telematics Africa Proprietary Limited, a subsidiary of Mix Telematics;
- 1.1.16 **"Merging Parties"** means Mainstreet 2000 and MiX Telematics;
- 1.1.17 **"Proposed Transaction"** means the acquisition of control by Mainstreet 2000 in Mix Telematics;
- 1.1.18 **"Target Group"** means Mix Telematics and its subsidiaries; and
- 1.1.19 **"Tribunal"** means the Competition Tribunal of South Africa;
- 1.1.20 **"Worker"** means an employee as defined in the Labour Relations Act 66 of 1995 (as amended) and, in the context of ownership, refers to ownership by a broad base of Workers.

2 CONDITIONS FOR THE APPROVAL OF THE MERGER

Employment

- 2.1 The Merging Parties shall not retrench any employees as a result of the Proposed Transaction for a period of 24 months from Approval Date.
- 2.2 It is recorded that this undertaking does not extend to:
 - 2.2.1. voluntary retrenchment and/or voluntary separation arrangements;
 - 2.2.2. voluntary early retirement packages;
 - 2.2.3. unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act, 66 of 1995;

- 2.2.4. resignations or retirements in the ordinary course of business;
- 2.2.5. retrenchments lawfully effected for operational requirements unrelated to the Proposed Transaction;
- 2.2.6. terminations in the ordinary course of business, including but not limited to dismissals as a result of misconduct or poor performance; and
- 2.2.7. any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.

The promotion of a greater spread of ownership, in particular to increase the levels of ownership by HDPs and works in firms in the market

- 2.3 Within **[CONFIDENTIAL]** months of the Implementation Date of the Proposed Transaction, the Merging Parties shall conclude the HDP Transaction and/or the ESOP.
- 2.4 Should the Merging Parties decide to conclude the ESOP, the ESOP will comply with the principles set out in **Annexure B** below.
- 2.5 Should the Merging Parties prefer a combination of the ESOP and the HDP Transaction, the minimum combined value of the ESOP and HDP Transaction must be 10% of the issued share capital of MiX Telematics Africa, an intermediate holding company, or subsidiary thereof, to be held by HDP shareholder(s).
- 2.6 The Merging Parties shall, prior to implementing the HDP Transaction, ESOP, and/or a combination thereof, inform the Commission on the structure the Merging Parties will be implementing.

3 MONITORING COMPLIANCE WITH THE CONDITIONS

- 3.1 The Merging Parties shall inform the Commission in writing of the Implementation Date within 5 (five) Days of it becoming effective.

- 3.2 Prior to the Implementation of the HDP Transaction and/or the ESOP, the Merging Parties must provide the Commission with the salient details pertaining to the HDP Transaction and/or the ESOP for approval prior to entering into the HDP Transaction and/or ESOP. This information will include details of the transaction and/or shareholder agreements, together with other material documents setting out the shareholding rights of the HDP shareholder and/or the rights of participants in respect of the ESOP.
- 3.3 The Commission shall (i) consider the information disclosed by the Merging Parties as soon as possible; and (ii) not unreasonably withhold the approval of the HDP Transaction and/or the ESOP. The Merging Parties shall within 5 (five) days of concluding an agreement with a HDP shareholder or the establishment of the ESOP, provide the Commission with the names and details of either the HDP shareholder or the profile of the ESOP participants.
- 3.4 Should the Merging Parties implement the ESOP, the Merging Parties will provide the details of total number of all Identified Workers in the Target Group at the time of implementation of the ESOP.
- 3.5 The Merging Parties shall submit a report on each anniversary of the Approval Date for the duration of the Conditions (as applicable), setting out its compliance with the Conditions set out in clauses 2.1 to 2.5 above and the progress thereof. This report shall be accompanied by an affidavit, attested to by a director of the Target Group, confirming the accuracy of the report. Such report shall include, amongst others:
- 3.5.1 Steps taken to implement the HDP Transaction and/or the ESOP;
- 3.5.2 Details of the agreement entered into between the HDP shareholder and/or the ESOP and the Target Group; and
- 3.5.3 Compliance with the requirements and commitments set out in clause 2.1 to 2.5.

4 APPARENT BREACH

- 4.1 Should the Commission receive any complaint in relation to non-compliance with the above Conditions, or otherwise determine 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.

5 VARIATION OF THE CONDITION

- 5.1 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 in relation to 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.

6 GENERAL

- 6.1 All correspondence in relation to these conditions must be submitted to the following e-mail 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

ANNEXURE B - CONFIDENTIAL

Design Principle	Applicable Criteria
Structure	<ul style="list-style-type: none"> ○ Will be a unitised structure whereby a trust will be established, and all Qualifying Workers will receive units.
Cost to Workers and participating HDPs	<ul style="list-style-type: none"> ○ No cost to Workers: Qualifying Workers must not be required to pay to participate in the ESOP. ○ Should the ESOP be funded through the notional vendor funding, the notional vendor funding will provide for a fixed trickle dividend in terms of which at least 35% of declared dividends will be paid to the beneficiaries with the remaining 65% used to service the vendor financed loan until such time as it is extinguished. ○ Once any loan funding has been extinguished, 100% of the declared dividends due to the beneficiaries will be distributed to the beneficiaries. ○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOP establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers. ○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.
Governance	<ul style="list-style-type: none"> ○ Qualifying Workers will be represented on the board of trustees of the ESOP.
Duration	<ul style="list-style-type: none"> ○ Perpetual / Evergreen
Participants	<ul style="list-style-type: none"> ○ All Qualifying Workers at the Target Group
Participation Benefits	<ul style="list-style-type: none"> ○ All Qualifying Workers will be entitled to dividends ○ Beneficiaries will cease to participate for bad leaver events: resignations and dismissals.