

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5657

13 December 2024

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

MAIN STREET 2019 PROPRIETARY LIMITED

AND

K2022411275 PROPRIETARY LIMITED

CASE NUMBER: 2024MAY0062

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:

Background

1. On 31 May 2024, the Competition Commission ("Commission") received notice of an intermediate merger wherein Main Street 2019 Proprietary Limited ("Main Street") intends to acquire the entire issued share capital of K2022411275 Proprietary Limited ("Bev Hold Co 2"). Post-merger, Main Street will exercise sole control over Bev Hold Co 2.
2. The primary acquiring firm is Main Street, a private company incorporated in terms of the laws of South Africa. Main Street is not controlled by any single shareholder. The shareholders of Main Street are: Alterra SPV ("Alterra SPV") **[CONFIDENTIAL]**; MIC Investment Holdings (RF) (Pty) Ltd ("MIC") **[CONFIDENTIAL]**; Admaius Capital Partners ("Admaius") **[CONFIDENTIAL]**; and the trustees for the time being of the Chill Beverages Group Management Trust ("Bev Man Trust") **[CONFIDENTIAL]**.
3. Main Street does not control any firm. Main Street is a newly incorporated firm and does not have any activities. The activities of Main Street's shareholders, namely Alterra SPV, Admaius, MIC and Bev Man Trust are as follows:
 - 3.1. Alterra SPV is not yet incorporated and does not have any activities.
 - 3.2. Admaius is a private equity firm focused on African investments in digital infrastructure, financial services, fast-moving consumer goods, healthcare, and education.

- 3.3. MIC is an investment holding company and invests in the media, financial services, industrial, technology, and consumer sectors; and
- 3.4. Bev Man Trust does not have activities and was established for the purposes of permitting the beneficiaries thereof (being the management of Bev Hold Co 2) to participate in the economic benefit of investing in Bev Hold Co 2.
4. The primary target firm is Bev Hold Co 2, a private company incorporated in South Africa. Bev Hold Co 2 is controlled by OMPE GP V Proprietary Limited ("OMPE"), acting in its capacity as the general partner of the OMPE Fund V Partnership ("OMPE Fund V"). Bev Hold Co 2 controls Chill Beverages Proprietary Limited ("Chill Beverages") and Inhle New Opco Beverages Proprietary Limited ("Inhle").
5. Bev Holdco 2 is active in the beverages sector in South Africa, through Chill Beverages and Inhle. Chill Beverages is a producer, packer, and distributor of beverages based in the Western Cape. It produces its own alcoholic and non-alcoholic branded beverages including Chateau del Rei, Score Energy, Fitch & Leeds, and Bashew's. In addition, Chill Beverages' contract-packing business offers third-party contract bottling and canning facilities. Chill Beverages has a bottling and canning facility based in Stellenbosch.
6. Inhle is a contract-packing business located in Heidelberg that specialises in the canning and bottling of carbonated soft drinks, natural water energy drinks, and alcoholic beverages.

Competition Assessment

7. The Commission found that the proposed transaction is unlikely to result in any substantial prevention or lessening of competition in any relevant markets.

Public Interest considerations

8. To address public interest concerns, the Commission and the merging parties have agreed to a number commitments including a 3 years moratorium on merger-specific job losses, commitments to make certain capital investments, as well as maintaining procurement from businesses owned by historically disadvantaged persons and SMMEs. The Commission and the merging parties have also agreed that the merged entity will improve its transformation levels. These commitments are set out in **Annexure A**.
9. The Commission therefore conditionally approves the proposed transaction.

ANNEXURE A: CONDITIONS**MAIN STREET 2019 PROPRIETARY LIMITED****AND****K2022411275 PROPRIETARY LIMITED****CASE NUMBER: 2024MAY0062****CONDITIONS****1. DEFINITIONS**

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

- 1.1. **"Acquiring Firm"** means Main Street 2019 Proprietary Limited;
- 1.2. **"Act"** means the Competition Act, No. 89 of 1998, as amended;
- 1.3. **"Approval Date"** means the date referred to on the Commission's Merger Clearance Certificate (Notice CC 15);
- 1.4. **"B-BBEE"** means Broad Black Based Economic Empowerment in terms of the Broad-Based Black Economic Empowerment Act 53 of 2003 (as amended);
- 1.5. **"Chill Beverages"** means Chill Beverages Proprietary Limited;
- 1.6. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act;
- 1.7. **"Commission Rules"** mean the Rules for the Conduct of Proceedings in the Commission;
- 1.8. **"Condition"** means these conditions;
- 1.9. **"Day"** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;

- 1.10. **"Existing HDP Suppliers"** means the suppliers of the Target Firm that are HDP-owned/controlled which have concluded a formal contract with the Target Firm as at the Approval Date;
- 1.11. **"Existing Small and Medium Businesses"** means small and medium businesses as defined in terms of section 1 of the Act, which have concluded a formal contract with the Target Firm as at the Approval Date;
- 1.12. **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.13. **"Merger"** means the acquisition of control by the Acquiring Firm over the Target Firm;
- 1.14. **"Merged Entity"** means the Target Firm subject to the control of the Acquiring Firm following implementation of the Merger;
- 1.15. **"Merging Parties"** mean collectively the Acquiring Firm and the Target Firm;
- 1.16. **"Target Firm"** means K2022411275 Proprietary Limited; and
- 1.17. **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act.

2. EMPLOYMENT

- 2.1. The Merged Entity shall not retrench any employees of the Target Firm as a result of the Merger for a period of 36 (thirty-six) months following the Approval Date.
- 2.2. For the sake of clarity, merger-specific retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; or (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance; and (vii) any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.

3. INVESTMENT

- 3.1. The Acquiring Firm shall, spend no less than **[CONFIDENTIAL]** towards the further development of the Target Firm over a period of 5 (five) years from the implementation Date.

4. B-BBEE RATING

- 4.1. The Merged Entity shall ensure that it attains a level 4 (four) B-BBEE rating within a period of 5 (five) years from the Implementation Date in respect of Chill Beverages.

5. PROCUREMENT

- 5.1. The Acquiring Firm shall, for a period of 3 (three) years from the Implementation Date continue to honour contracts with Existing HDP Suppliers and Existing Small and Medium Businesses, subject to the contractual terms of those contracts and provided that the relevant Existing HDP Suppliers and Existing Small and Medium Businesses are still operational, it is commercially viable to do so, and the goods and services can be sourced on competitive terms. To the extent that any contracts with Existing HDP Suppliers and Existing Small and Medium Businesses have a term extending beyond the three-year period, the Merged Entity shall respect such contracts, subject to the same conditions outlined above and the contractual terms of those contracts.

6. MONITORING

- 6.1. The Acquiring Firm shall inform the Commission in writing of the Implementation Date, within 5 (five) Days of its occurrence.
- 6.2. The Merged Entity shall, within 30 (thirty) days of each anniversary of the Implementation Date, submit a detailed written report for a period of 3 (three) years, confirming compliance with clauses 2 and 5 of the Conditions. The report must be accompanied by an affidavit which must be deposed to by a senior official of the Merged Entity attesting to the contents of the report.
- 6.3. The Merged Entity shall, within 30 (thirty) days of each anniversary of the Implementation Date, submit a detailed written report for a period of 5 (five) years, confirming compliance with clauses 3 and 4 of the Conditions. The report must be accompanied by an affidavit which must be deposed to by a senior official of the Merged Entity attesting to the contents of the report.

- 6.4. The Commission may request such additional information from the Merging Parties which the Commission, may from time to time, deem necessary to monitor the extent of compliance with these Conditions.

7. APPARENT BREACH

Should the Commission receive any complaint in relation to non-compliance with the above 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.

8. VARIATION

The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be waived, relaxed, modified and/or substituted. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown and on notice to the Commission, for the Conditions to be waived, relaxed, modified and/or substituted.

9. GENERAL

All correspondence in relation to the 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