

**DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION****NOTICE 3078 OF 2025****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****SWIFT SILLIKER (PTY) LTD****AND****M&L LABORATORY SERVICES (PTY) LTD****CASE NUMBER: 2024OCT0063**

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 29 October 2024, the Competition Commission (the "Commission") received notice of an intermediate merger wherein Swift Silliker (Pty) Ltd ("Swift Silliker"), intends to acquire 100% of the issued share capital of M&L Laboratory Services (Pty) Ltd ("M&L"). After implementation of the proposed merger, Swift Silliker will acquire sole control over M&L.
2. The primary acquiring firm is Swift Silliker, a private company incorporated in South Africa. Swift Silliker is controlled by Silliker South Africa (Pty) Ltd ("Silliker SA"). Silliker SA is ultimately controlled by Compagnie Mérieux Alliance SAS ("CMA"), a company incorporated in France.
3. Swift Silliker, all the firms controlling it, all the firms controlled by the firms that control it, are collectively referred to as the "Acquiring Group".
4. The Acquiring Group does not have any shareholding held by Historically Disadvantaged Persons ("HDPs") as contemplated in the Competition Act No.89 of 1998, as amended (the "Act").

5. The Acquiring Group provides services relating to food, packaging, water, disinfectants, agrochemicals, pharmaceutical, healthcare, cosmetics and consumer goods testing. In South Africa, the Acquiring Group provides food testing services (including microbiology, nutritional analysis, contaminants and residues, mycotoxins, allergens, authenticity, environmental monitoring programme).
6. The primary target firm is M&L, a private company incorporated in South Africa. M&L is wholly controlled by BV Inspectorate Laboratories (Pty) Ltd ("BV SA"), a private company incorporated in South Africa. M&L does not control any firm/s.
7. M&L (i.e., primary target firm) has a [**confidential**] indirect HDP shareholding through BV SA.
8. M&L provides testing, inspection and certification ("TIC") services including, inter alia, microbiological product and food safety and quality testing, agri-food and commodities inspection and laboratory testing, food and water testing and pharmaceutical and healthcare product testing. M&L's laboratories provide food testing offering, ensuring the quality and safety of the food supply through microbiological assessments and chemical analyses.

#### **Competition Assessment**

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

#### **Public interest considerations**

10. To address the public interest concerns arising from the proposed merger, the parties have tendered the conditions set out in **Annexure A**.

#### **Conclusion**

11. The Commission approves the proposed merger subject to the conditions set out in **Annexure A** attached hereto.

**ANNEXURE A**  
**SWIFT SILLIKER PROPRIETARY LIMITED**  
**AND**  
**M&L LABORATORY SERVICES PROPRIETARY LIMITED**  
**CASE NUMBER: 2024OCT0063**

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**CONDITIONS**

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**1. DEFINITIONS**

In this document, the expressions used below will have the appropriate meaning assigned to them and the following and related expressions will bear the following meaning:

- 1.1 **"Acquiring Firm"** means Swift Silliker Proprietary Limited, a private company incorporated in accordance with the laws of South Africa;
- 1.2 **"Approval Date"** means the date on which the Merger is approved by the Commission in terms of the Competition Act;
- 1.3 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.4 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission;
- 1.5 **"Competition Act"** means the Competition Act, 89 of 1998, as amended;
- 1.6 **"Conditions"** means the conditions in this **Annexure A**;
- 1.7 **"Days"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.8 **"Employees"** means the permanent employees (as contemplated under the Labour Relations Act 66 of 1995, as amended) of the Acquiring Firm and the Target Firm who qualify based on principles to be determined by the Acquiring Firm, which shall include Workers, and **"Employee"** means, as the context requires, any one of them;

- 1.9 **"ESOP SPV"** means an employee share ownership plan to be implemented through an employee trust, that will acquire a shareholding of **[confidential]** in the Acquiring Firm and in terms of which Qualifying Employees shall be beneficiaries thereunder;
- 1.10 **"Implementation Date"** means the date occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.11 **"Merged Entity"** means the Target Firm subject to control of the Acquiring Firm following the Implementation Date;
- 1.12 **"Merger"** means the acquisition by the Acquiring Firm of all of the shares in the Target Firm as notified to the Commission under Commission case number 2024OCT0063;
- 1.13 **"Merging Parties"** means the Acquiring Firm and the Target Firm;
- 1.14 **"NVF"** means notional vendor financing in the context of the ESOP SPV;
- 1.15 **"Qualifying Employees"** means unskilled, semi-skilled and skilled Employees, and will exclude management and executive Employees who form part of any other ownership scheme of the Acquiring Firm and the Target Firm as of the Approval Date and the Implementation Date;
- 1.16 **"South Africa"** means the Republic of South Africa;
- 1.17 **"Target Firm"** means M&L Laboratory Services Proprietary Limited, a private company incorporated in accordance with the laws of South Africa;
- 1.18 **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act;
- 1.19 **"Tribunal Rules"** means the Rules for the Conduct of Proceedings in the Tribunal; and
- 1.20 **"Workers"** means Employees, and, in the context of ownership, refers to ownership by a broad base of Employees.

## 2. BROAD-BASED BLACK ECONOMIC EMPOWERMENT CONDITION

- 2.1 Within 12 (twelve) months of the Implementation Date, the Merged Entity shall implement the ESOP SPV.

2.2 The ESOP SPV structure shall be finalised in accordance with the following principles:

2.2.1 the ESOP SPV will be a trust established for the benefit of Qualifying Employees;

2.2.2 the trust shall have a board of trustees as follows: the Merged Entity and the Workers shall appoint an equal number of trustees. In addition, the Workers shall be entitled to appoint 1 (one) independent chairperson with the prior written approval of the Merged Entity;

2.2.3 all Qualifying Employees shall be eligible for participation, and maternity leave will have no adverse impact on the qualifying criteria;

2.2.4 the ESOP SPV shall acquire a shareholding of [confidential] in the Acquiring Firm for a nominal consideration and on an unencumbered basis. For the avoidance of doubt, Qualifying Employees will not be required to pay any money to participate in the ESOP SPV and the nominal consideration required to purchase shareholding in the Acquiring Firm shall be advanced to the ESOP SPV by the Acquiring Firm and shall be in the form of a NVF loan;

2.2.5 as an ordinary shareholder, the ESOP SPV, like all the other ordinary shareholders of the Acquiring Firm, will be entitled to receive dividends in respect of its ordinary shares in the Acquiring Firm once the Acquiring Firm is able to declare ordinary dividends to its ordinary shareholders; and

2.2.6 the ESOP SPV will be established on the basis of a trickle dividend of [confidential]. The ESOP SPV will receive at least [confidential] of the total dividends accruing on an annual basis, the remaining dividends being used to defray the cost of the NVF facility, it being agreed that the portion allocated for which a dividend is payable to the ESOP SPV may be increased by the Acquiring Firm, but not be reduced.

### 3. MONITORING

3.1 The Merged Entity shall inform the Commission in writing of the Implementation Date within 7 (seven) Days of the Implementation Date.

3.2 The Merged Entity shall, 30 days after the first Anniversary from the Implementation date, provide to the Commission a report detailing the steps taken to implement the ESOP SPV and the progress made in that regard. This report shall be accompanied

by an affidavit attested to by a senior official of the Merged Entity, confirming the accuracy of the report.

3.3 The Merged Entity shall inform the Commission of the implementation date of the ESOP SPV contemplated in clause 2.1 above, within 10 (ten) Days of its occurrence.

3.4 The Commission may request additional information from the Merging Parties, which the Commission may reasonably deem necessary for the purposes of monitoring the extent of compliance with the Conditions.

#### **4. APPARENT BREACH**

4.1 In the event that the Commission discovers that there has been an apparent breach of these Conditions, this shall be dealt with in terms of Rule 37 of the Tribunal Rules read together with Rule 39 of the Commission Rules.

#### **5. VARIATION**

5.1 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.

#### **6. GENERAL**

6.1 All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: [mergerconditions@compcom.co.za](mailto:mergerconditions@compcom.co.za) and [ministry@thedtic.gov.za](mailto:ministry@thedtic.gov.za).

7. Enquiries In This Regard May Be Addressed To The Manager: Mergers And Acquisitions Division At Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3200.