

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NO. 6021****20 March 2025****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****ADCOCK INGRAM HEALTHCARE PROPRIETARY LIMITED****AND****A PORTION OF THE BUSINESS OF LUNDBECK SOUTH AFRICA PROPRIETARY
LIMITED AND H. LUNDBECK PROPRIETARY LIMITED****CASE NUMBER: 2024OCT0007**

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. The primary acquiring firm, Adcock Ingram Healthcare Proprietary Limited ("Adcock Ingram"), intends to acquire a portion of the business of Lundbeck South Africa Proprietary Limited ("Lundbeck SA") and H. Lundbeck Proprietary Limited ("H. Lundbeck") and certain assets associated therewith (the "Lundbeck Business"). Thereafter, Adcock Ingram will wholly own and solely control the Lundbeck Business in terms of the Competition Act, 89 of 1998.
2. Adcock Ingram is a private company registered in accordance with the laws of South Africa. Adcock Ingram is wholly owned and controlled by Adcock Ingram Holdings Limited ("Adcock Ingram Holdings"), a public company listed on the Johannesburg Stock Exchange.
3. Adcock Ingram Holdings is 30.31% owned by historically disadvantaged persons ("HDPs").
4. Adcock Ingram and its controllers shall be referred to as the "Adcock Ingram Group".
5. The primary target firm is Lundbeck SA, which, in turn, controls H. Lundbeck. Lundbeck SA is wholly owned and controlled by H. Lundbeck A/S ("Lundbeck"), a public company registered in Denmark and listed on the Danish Stock Exchange.
6. Lundbeck does not have ownership by HDPs.

Activities of the merging parties

7. The Adcock Ingram Group manufactures, markets and distributes a wide range of medicines and healthcare and homecare products to both the private and public sectors in, *inter alia*, South Africa. Of relevance to the proposed transaction is the Prescription Division that consists of central nervous system ("CNS") medications. Adcock Ingram offers the Anatomic Therapeutic Chemical level 3 ("ATC3") N5A Antipsychotic medications and the ATC3 N6A Anti-Depressant/Mood Stabilisers.
8. Lundbeck is a Danish pharmaceutical company that researches, develops, manufactures, markets and sells a range of psychiatry and neurology-focused pharmaceutical products globally. Lundbeck SA and H. Lundbeck are responsible for the marketing and sale of Lundbeck's pharmaceutical products in South Africa. The Lundbeck Business imports and markets CNS medications to wholesalers and the public sector via Adcock Ingram, which is its sole distributor in South Africa. The Lundbeck Business' portfolio also includes CNS medications in the ATC3 N5A Antipsychotics and N6A Anti-depressants/Mood Stabiliser categories.

Areas of overlap and competition analysis

9. The merging parties' activities overlap in the provision of CNS medication in the ATC3 N5A Antipsychotics and N6A Anti-depressants/Mood Stabiliser categories in South Africa.
10. With respect to the marketing and distribution of ATC3 N5A Antipsychotics in South Africa, the merged entity will have market shares of approximately [CONFIDENTIAL], with a market share accretion of [CONFIDENTIAL]. In the marketing and distribution of ATC3 N5A Antipsychotics in South Africa, the merging parties will continue to be constrained by Dr Reddys Lab, Cipla Medpro, Johnson & Johnson, Aspen, amongst several others.
11. With respect to the marketing and distribution of ATC3 N6A Anti-depressants/Mood Stabilisers in South Africa, the merged entity will have a market share of approximately [CONFIDENTIAL], with a market share accretion of [CONFIDENTIAL]. In the marketing and distribution of ATC3 N6A Anti-depressants/Mood Stabiliser in South Africa, the merging parties will continue to be constrained by Cipla Medpro, Aspen, Sun Pharma, Dr Reddy's Lab, Lupin Laboratories, Biotech Labs Biotech, Pfizer, amongst others.
12. The Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa.

Public interest analysis

Effect on employment

13. Lundbeck has taken the decision [**CONFIDENTIAL**] to offer its 27 employees, voluntary severance packages ("VSPs") immediately after the proposed merger is implemented. It is the merging parties' intention that all the employees of the Lundbeck Business ("Lundbeck Employees") who do not VSPs will transfer to Adcock Ingram upon implementation of the proposed transaction in terms of section 197 of the Labour Relations Act, No. 66 of 1995 (the "LRA"). The number of Lundbeck Employees to be transferred to Adcock Ingram is yet to be determined as the VSP process has not been completed.
14. To address the employment related concerns arising from the proposed merger, the merging parties have agreed to a moratorium of 24 months for non-management employees.

Conclusion

15. The Commission approves the proposed transaction with conditions in Annexure A.

ANNEXURE A**ADCOCK INGRAM HEALTHCARE PROPRIETARY LIMITED****AND****A PORTION OF THE BUSINESS OF LUNDBECK SOUTH AFRICA PROPRIETARY LIMITED AND CERTAIN ASSETS ASSOCIATED THEREWITH****CASE NUMBER: 2024OCT0007**

CONDITIONS

1. DEFINITIONS

In this document, the following expressions bear the meanings assigned to them below, and related expressions bear corresponding meanings: –

- 1.1 **"Acquiring Firm"** means Adcock Ingram Healthcare Proprietary Limited;
- 1.2 **"Act"** means the Competition Act, No. 89 of 1998 as amended;
- 1.3 **"Adcock Ingram"** means Acquiring Firm;
- 1.4 **"Approval Date"** means the date referred to on the Commission's Merger Clearance Certificate (Form CC 15);
- 1.5 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act;
- 1.6 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Commission;
- 1.7 **"Conditions"** means these conditions;
- 1.8 **"Day"** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.9 **"H. Lundbeck Proprietary Limited"** means the wholly owned subsidiary of the Target Firm;
- 1.10 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.11 **"Lundbeck Business"** means a portion of the business of the Target Firm, H. Lundbeck Proprietary Limited, and certain assets associated therewith;

- 1.12 **"Management Position"** – means any employee whose title includes the term 'manager with job grade 'M';
- 1.13 **"Merger"** means the acquisition of the Target Firm by the Acquiring Firm;
- 1.14 **"Merging Parties"** means collectively, the Acquiring Firm and the Target Firm;
- 1.15 **"Target Firm"** means Lundbeck South Africa Proprietary Limited; and
- 1.16 **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act.

2. **CONDITIONS**

EMPLOYMENT CONDITION

- 2.1 The Merging Parties shall not retrench, as a result of the Merger –
- 2.1.1 any employees that are employed in a Management Position as at the Implementation Date, for a period of 18 (eighteen) months from the Implementation Date; and
- 2.1.2 any of their other employees in South Africa for a period of 24 (twenty-four) months from the Implementation Date.
- 2.2 For the sake of clarity, retrenchments for purposes of paragraph 2.1 above will not include (i) voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.
- 2.3 To the extent that any employees are retrenched pursuant to paragraph 2.1, then for a period of 6 months following the conclusion of such retrenchment process and restructure, Adcock Ingram will offer such employees preferential re-employment opportunities, should any vacancies arise which such employees are qualified to fill.

3. MONITORING

- 3.1 The Merging Parties shall inform the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.
- 3.2 The Acquiring Firm shall circulate a copy of the Conditions to the Merging Parties' employees and the trade union(s) notified of the Merger within 5 (five) Days of the Approval Date.
- 3.3 As proof of compliance with clause 3.2, the Acquiring Firm, shall within 10 (ten) Days of circulating the Conditions, submit an affidavit to the Commission attesting to the circulation of the Conditions and provide a copy of the notice that was sent to the employees and, the relevant trade union(s).
- 3.4 The Acquiring Firm shall, within 60 (sixty) Days of the first two anniversaries of the Implementation Date, submit a report to the Commission, setting out the extent of its compliance with the Condition set out in paragraph 2.1 above. The compliance report shall be accompanied by an affidavit from a director of the Acquiring Firm attesting to the correctness of the report.

4. APPARENT BREACH

- 4.1 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.

5. VARIATION OF CONDITIONS

- 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 address: mergerconditions@compcom.co.za and 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.