

ANNEXURE A

WIPRO UNZA HOLDINGS LIMITED

AND

CANWAY (PTY) LTD

CASE NUMBER: 2019NOV0017

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;
- 1.1.2 **"Acquiring Firm"** means Wipro Unza Holdings Ltd (WUHL);
- 1.1.3 **"Affected Employees"** means the maximum number of employees currently employed by the Target Firm who are likely to be retrenched, being no more than 20 (twenty) employees falling within Grade A (unskilled labour) of the Paterson Grading System;
- 1.1.4 **"Approval Date"** means the date upon which the Commission approves the Proposed Merger by issuing an approval certificate;
- 1.1.5 **"Canway Products"** means all products that will be manufactured by the Merging Parties in South Africa, including but not limited to foam baths, shampoo, skin repair products and body lotions, amongst others;
- 1.1.6 **"Commission"** means the Competition Commission of South Africa;
- 1.1.7 **"Commission Rules"** means the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.1.8 **"Conditions"** means these conditions;
- 1.1.9 **"Days"** means any calendar day which is not a Saturday, Sunday or an official holiday in South Africa;

- 1.1.10 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Proposed Merger is implemented by the Merging Parties;
- 1.1.11 **"LRA "** means the Labour Relations Act No. 66 of 1995 (as amended);
- 1.1.12 **"Merged Entity"** means the Target Firm and the Acquiring Firm, and collectively, the Merging Parties;
- 1.1.13 **"Merging Parties"** means WUHL and Canway;
- 1.1.14 **"Moratorium Period"** means a period of two (2) years from the Implementation Date;
- 1.1.15 **"Proposed Merger"** means the acquisition of the entire issued share capital of Canway by WUHL, which constitutes an intermediate merger;
- 1.1.16 **"Target Firm"** means Canway (Pty) Ltd, including its subsidiaries (Canway); and
- 1.1.17 **"Tribunal"** means the Competition Tribunal of South Africa.

2 Recordal

- 2.1 On 11 November 2019, the Merging Parties filed the Proposed Merger. The Commission's investigation found that the Proposed Merger is unlikely to substantially prevent or lessen competition in any market.
- 2.2 During its investigation, the Commission found that 20 (twenty) out of 287 (two hundred and eighty-seven) employees of the Target Firm are likely to be retrenched. However, the Commission notes that these retrenchments are not as a result of the Proposed Merger. In order to safeguard against any merger related retrenchments, the Commission and the Merging Parties have agreed to a Condition that no merger-specific retrenchments shall occur during the Moratorium Period.
- 2.3 The Commission also found that it is likely that the Proposed Merger will have a negative impact on a particular industrial sector or region as contemplated in Section 12A(3)(a) of the Act. In particular, the Commission was concerned about the likely effect of the Proposed Merger on the local suppliers of packaging products (bottles, closures and labels) in South Africa.

- 2.4 The Commission found that the Target Firm sources some of its packaging products from local suppliers situated in South Africa. On the other hand, the Acquiring Firm is not a South African-based manufacturer but imports its products into South Africa. The Commission probed the Merging Parties on their procurement policy, post-merger. The Merging Parties submitted that they will continue to procure packaging products from local packaging product suppliers as they currently do, pre-merger.
- 2.5 Notwithstanding the above, the Commission was concerned that the Acquiring Firm can import packaging products from elsewhere in the world to the detriment of local manufacturers who currently supply the Target Firm with some of its packaging products. This concern emanates from the Acquiring Firm's scale, especially in Asian countries, where it could potentially use its purchasing power to secure discounted packaging products for its operations in South Africa. In order to allay the Commission's concerns, the Merging Parties agreed to a Condition that, insofar as they currently procure locally manufactured packaging products, they will continue to procure locally manufactured packaging products from local suppliers for a period of 2 (two) years post the Implementation Date, so long as the product design and specifications remain unchanged.
- 2.6 In light of the above, the Commission approves the Proposed Transaction subject to the Conditions.

3 Conditions to the Approval of the Merger

Employment

- 3.1 Save for the Affected Employees, the Merging Parties shall not effect any merger specific retrenchments at the Target Firm, for the duration of the Moratorium Period.
- 3.2 The Target Firm, upon the implementation of the Merger, shall use reasonable endeavours to inform the Affected Employees, of any relevant job opportunities which arise at the Target Firm. To the extent that any of the Affected Employees apply for these jobs, and to the extent that such employees are suitably qualified

for the relevant job, the Target Firm will give preference to the Affected Employees over other equally qualified applicants who are not part of the Affected Employees.

3.3 The Target Firm will forward a communicate via SMS, email and/or community notice boards, directly or indirectly through third party service providers to all the Affected Employees, providing such Affected Employees with the information and details of the position as well as contact details as to whom to contact within the Target Firm's human resource department to enable them to apply should they wish to do so. Under all circumstances the onus will rest on the Affected Employees to apply for a vacant position.

3.4 Should an Affected Employee meet the relevant criteria and job requirements in terms of qualification, experience and skills required, the application will be facilitated through the Target Firm's human resource department.

3.5 For the sake of clarity, retrenchments do not include (i) voluntary separation arrangements; or (ii) voluntary early retirement packages, (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (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 contract worker.

Procurement from Local Suppliers

3.6 For the Moratorium Period, the Merging Parties shall continue to procure packaging products currently being manufactured locally, such as PET bottles, labels, shrink sleeves and tubes amongst others used in the packaging of Carway's Products, from local suppliers situated in South Africa so long as such packaging products, even with the revised design and specifications, are within the capability of local suppliers to supply.

4 Monitoring compliance with the Conditions

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

4.2 The Target Firm shall circulate a copy of the Conditions within 5 (five) Days of the Approval Date to all employees of the Target Firm and/or their employee representatives including relevant trade unions. As proof of compliance herewith, the Target Firm shall within 10 (ten) Days of circulating the Conditions provide the Commission with an affidavit by a relevant director of the Target Firm, attesting to the circulation of the Conditions and attach a copy of the said notice that was sent to the employees, the relevant trade unions and employee representatives.

4.3 The Target Firm shall publish a non-confidential version of the Conditions on the Target Firm's website within 5 (five) Days of the Approval Date. These conditions shall remain published on the Target Firm's website for a period of 1 (one) year from the Approval Date. As proof of compliance herewith, the Target Firm shall within 10 (ten) Days of publishing the Conditions, provide the Commission with an affidavit by a relevant director of the Target Firm, attesting to the publishing of the Conditions and providing a link to the relevant website.

4.4 The Merged Entity shall submit a report on each anniversary of the Implementation Date, setting out its compliance with clause 3.1 of the Conditions for the duration of the Moratorium Period. This report shall be accompanied by an affidavit, attested to by the Chief Executive Officer or Managing Director of the Merged Entity, confirming the accuracy of the report.

5 Apparent breach

5.1 In the event that the Commission receives any complaint in relation to non-compliance with the above undertaking or otherwise determines that there has been an apparent breach of any of the Conditions by the Merged Entity, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

5.2 Any employee of the Merging Parties who believes that his or her employment with the Merging Parties has been terminated in contravention of these Conditions may approach the Commission with his or her grievance

6 Variation of the Condition

- 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 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.

7 General

- 7.1 All correspondence in relation to these Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za.