

CAXTON AND CTP PUBLISHERS AND PRINTERS LIMITED
("Caxton" or "the Company")
(Incorporated in the Republic of South Africa)
(Registration number 1947/026616/06)
Share Code: CAT ISIN: ZAE000043345

RULINGS IN RELATION TO MPACT LIMITED ("MPACT"):
COMPETITION TRIBUNAL ("THE TRIBUNAL");
TAKEOVER REGULATION PANEL ("THE PANEL"); AND
JOHANNESBURG STOCK EXCHANGE ("THE JSE")

On 4 October 2022, the Tribunal published the detailed reasons for its ruling of 22 September 2022, in which it set aside the August 2021 decision of the Competition Commission ("**the Commission**") to refuse a Rule 28 merger notification by Caxton vis-à-vis Mpact. The Tribunal has referred the Commission's decision back to the Commission for re-consideration. The detailed reasons for the Rule 28 ruling are published on the Tribunal's website at <https://www.comptrib.co.za/case-detail/19768#>

By way of background, Caxton's Rule 28 merger application and its review to the Tribunal of the Commission's decision has led to numerous conflicts between Caxton and Mpact, which are detailed below.

In its August 2021 decision, the Commission relied heavily on the prejudice that Mpact claimed it would suffer if Caxton was allowed to make a Rule 28 merger notification. In the Tribunal's ruling ("**the Rule 28 ruling**"), the Tribunal has found that the claimed customer flight prejudice triggered by a mere merger filing is an irrelevant consideration at this stage of a merger process.

Caxton is aware from publicly disclosed information that confidential submissions concerning this alleged prejudice of customer flight were made (including by way of sworn affidavits) by both Mpact and its largest customer, multi-billion Rand packaging firm, Golden Era, during the course of the Rule 28 merger application.

In this regard, Mpact claims that if Caxton is permitted to make a merger filing, this will have a "**devastating impact**" and negative consequences for Mpact and its shareholders, in that it would trigger customer flight by Mpact's largest customer.

Given the Tribunal's guidance in the Rule 28 ruling and the prevailing factual matrix, Caxton anticipates a positive outcome in respect of its reconsidered Rule 28 application. However, there are significant risks inherent in Mpact's "poison pill" claims of customer flight which an Mpact merger notification by Caxton will activate. Such customer flight would also impact Caxton as a 34% shareholder in Mpact.

In order to assist Caxton shareholders to appreciate the risks, Caxton discloses the below information to its shareholders in order to highlight the circumspection and care which Caxton will need to adopt vis-à-vis Mpact.

- First, Mpact made confidential submissions to the Commission, which the Commission relied on in its determination of the Rule 28 merger application.

- o These confidential submissions were not made available to Caxton or its advisors and Caxton was therefore not able to respond to these submissions at the time. Only when Caxton challenged the Commission's decision did Mpact allow Caxton's legal advisors (not Caxton itself) access to the confidential information.
 - o Caxton subsequently challenged the claims of confidentiality and Caxton's Chairperson, Mr Jenkins, was given access to some of the information claimed as confidential. See <https://www.comptrib.co.za/case-detail/19945> At this time it became apparent that some of the information claimed as confidential was known to Mr Jenkins and Caxton through public sources or through the non-confidential versions of documents already circulated to Caxton by Mpact.
 - o Specifically, Mr Jenkins and Caxton were aware of the identity and fact of Golden Era's objection to the proposed merger between Caxton and Mpact. This is confirmed by the Tribunal in paragraph 152 of the Rule 28 ruling.
 - o The customer flight issue, i.e. that Golden Era would cease to do business with Mpact, and its business would be lost, if a merger filing is made to the competition authorities, was confidentially disclosed to Mr Jenkins, but subsequently brought into the public domain by Mpact.
- Second, one aspect of the information disclosed to Mr Jenkins, i.e. the customer flight issue, was and remains of grave concern as it appears to comprise Price Sensitive Information ("**PSI**").
 - o Mr Jenkins confronted Mpact with his view that the customer flight issue by Mpact comprises PSI, but this was denied. In turn, Caxton then lodged a formal complaint to the JSE about Mpact's non-disclosure of material, non-public PSI in contravention of the JSE Listings Requirements ("**JSELR**").
 - o Mr Jenkins also made public statements that Mpact was in possession of PSI that should be shared with Mpact's shareholders (including Caxton).
 - o Caxton further complained to the JSE that executive directors of Mpact traded in Mpact shares to a value of more than R15m whilst in possession of this PSI.
 - o Lastly, Caxton objected to the fact that the board of Mpact, despite a valid shareholders' meeting requisition from Caxton, refused to convene a shareholder meeting to consider the PSI issue.
 - o Mpact apparently defends its position by suggesting that the customer flight issue is not certain and therefore not PSI. Mpact's claimed uncertainty of the PSI is expressly contradicted by the affidavits filed by Mpact in the various competition proceedings.
 - o Mpact also alleges that Caxton only seeks to disclose this information because it wishes to see the Mpact share price fall. The allegations by Mpact in this regard are egregious and untrue and have been denied.
 - o The JSE continues to investigate the Caxton complaint, which has been forwarded to Mpact by the JSE. The JSE is seeking further information from Mpact.

- Third, Mpack complained to the Panel that Caxton's actions comprise an affected transaction and that all communication about Mpack should first be vetted by the Panel.
 - The Panel agreed with Mpack and the outcome of that complaint was essentially that Caxton is gagged from referring publicly to information "about the acquisition of Mpack".
 - Caxton recently filed an appeal to the Takeover Special Committee ("**TSC**") against the Panel's Gag order.
 - In its defence, Mpack raises the motives of Caxton for an alleged breach of Mpack's undisclosed confidential information, as a central point.
 - Proceedings before the TSC are continuing.

- Fourth, in a response to Mr Jenkins' and Caxton's public statements and in a further attempt to gag Mr Jenkins and Caxton from airing publicly available information, Mpack brought an enforcement application to the Tribunal, asking that Mr Jenkins and Caxton be interdicted from disclosing the information which Mpack considers to be confidential, but to which Caxton has access via public sources.
 - Mpack asks for a finding that Mr Jenkins and/or Caxton has contravened the Competition Act and for a penalty of 10% of Mr Jenkins and/or Caxton's turnover.
 - Caxton and Mr Jenkins are opposing the enforcement application.
 - Proceedings before the Tribunal are continuing.

- Fifth, Caxton, as a 34% shareholder of Mpack, also seeks to hold the Mpack board accountable for Mpack's failure to disclose the risks of the historic cartel with Golden Era, in its reporting to shareholders.
 - Caxton has opposed the approval of non-executive remuneration on this basis and on the basis of non-compliance with the JSELR.
 - Caxton also notes the disregard by Mpack of the governance requirements of the Companies Act, 2008, with its appointment of non-executive directors to a subsidiary of Mpack, solely to create a formalistic legal basis to bypass shareholder approval of non-executive directors' remuneration.
 - Caxton seeks transparency and full disclosure from Mpack.

Against the above background, Caxton advises its shareholders that:

- Mpack and its largest carton board customer, competitor, co-cartel respondent in an ongoing prosecution (which Caxton knows is packaging giant, Golden Era) oppose a merger filing by Caxton on the basis that if Caxton is permitted to make a merger filing, Golden Era will forthwith withdraw its custom from Mpack;
- Such customer flight as referred to in the Rule 28 ruling will occur, ostensibly, because Caxton is a direct competitor of Golden Era. Mpack and Golden Era have filed affidavits supporting their opposition to a merger filing;
- Customer flight by Golden Era will, according to Mpack, have a "devastating impact" on Mpack and its customers, suppliers and shareholders (which include Caxton);

- According to Caxton's own market information, Golden Era purchases nearly half of the carton board output of Mpack's Springs mill, of some 45 000 tons, in addition to its purchase of tens of thousands of tons of corrugated board from Mpack;
- Independent sources confirm that Golden Era is already seeking alternative imported carton board sources of supply;
- It is uncertain if Mpack's banking covenants will be affected by an adverse event of customer flight with "devastating" consequences and how the loss of Golden Era's business will affect the future of Mpack's affected operations;
- Golden Era has previously threatened to withdraw its custom from Mpack, to extract commercial benefits from Mpack;
- Mpack affords Golden Era, unspecified benefits and favoured nation preferences, including pricing, in its purchase of carton board;
- Mpack and Golden Era stand accused of cartel conduct. Mpack has admitted to the conduct and has received conditional corporate leniency from the Commission, but Golden Era has denied its participation. Caxton considers the above continued co-ordinated conduct to be indicative of the fact that the vestiges of the historic cartel between Mpack and Golden Era continue;
- Where undisclosed cartel activity in regard to Mpack and Golden Era has occurred or continues to occur, the Commission may revoke Mpack's current amnesty for its cartel participation with Golden Era and levy a fine on Mpack of up to 10% of its turnover;
- The position of Golden Era as a 10% shareholder of Mpack gives rise to a concern about the potential conflict of the Mpack board in assessing the best interests of all shareholders; and
- The appointment of all Mpack directors as directors of a subsidiary of Mpack renders the Mpack board accountable to itself and places it beyond accountability to Mpack shareholders, which in turn raises questions about the independence of the Mpack board.

Caxton has reported in its recent results announcement that as the largest shareholder in Mpack, it continues to persevere in its efforts to obtain clarity regarding competition and PSI issues as between Mpack and Golden Era and as between Mpack and its shareholders. The above matters demand that the Mpack board make full and transparent disclosure to shareholders, with the prospect of a Caxton merger filing now a step closer, as a result of the Rule 28 ruling.

The Caxton board accepts responsibility for the information contained in this announcement and certifies that, to the best of its knowledge and belief, the information contained in this announcement is true and that this announcement does not omit anything that is likely to affect the import of such information.

Paul Jenkins (paul@jenkins.co.za)
 Non-Executive Chairman
 Caxton and CTP Publishers and Printers Limited
 6 October 2022
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