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Competition Tribunal approves Bidco, Mediclinic merger with conditions that will benefit South Africa's public healthcare sector

The Competition Tribunal ("Tribunal") has approved the proposed merger whereby Manta Bidco Ltd ("Bidco") intends to acquire Mediclinic International Plc ("Mediclinic"), subject to a package of public interest-related conditions that will benefit South Africa's public healthcare sector. These include commitments by Mediclinic to, among others, perform free surgeries to help address surgical backlogs in public hospitals; pay for nurses' tuition; financially support the upgrading of clinics or mobile health units in underserviced areas; procure from Black-owned businesses; and establish an employee benefit scheme. The Tribunal has also imposed conditions on the transaction that seek to address the risk of information sharing post-merger.

Merging parties

Bidco, incorporated under the laws of England and Wales, is a joint venture ("JV") company controlled by Remgro Healthcare Holdings (Pty) Ltd ("RHH") and SAS Shipping Agencies Services S.à.r.l. ("SAS"). RHH, in turn, is incorporated under the laws of the Republic of South Africa and SAS under the laws of the Grand Dutchy of Luxembourg.

Mediclinic is incorporated under the laws of the United Kingdom. It has primary listing on the London Stock Exchange and secondary listing on the JSE and Namibian Stock Exchange. Mediclinic's shares are widely held and no single firm or individual directly or indirectly controls it. Mediclinic controls several firms, comprising mostly hospitals in various areas including Jersey, UK, Netherlands, Luxembourg and Southern Africa.

Conditions

Following a hearing during which the Tribunal heard submissions from the merging parties, the Competition Commission and other interested third parties, and following requests by the Tribunal for clarification on certain aspects of the proposed transaction, the Tribunal approved the proposed merger with the conditions as summarised below:

<u>Collaboration with the South African public health sector</u> - Mediclinic will provide support in addressing surgical backlogs in South Africa's public healthcare sector by performing, with partnering practitioners and specialists, at least 1000 *pro bono* surgeries at its facilities in South Africa in aggregate over its next five financial years. This will be subject to appropriate practitioners and specialists being available to perform the surgeries in line with healthcare practice. Among others, Mediclinic will consult with relevant provincial health departments where it has a presence regarding the nature and location of the surgeries. Recommendations made timeously by the National Department of Health, to the extent reasonably possible, affordable and practical, will be considered in delivering on this condition.

<u>Doctor engagement programme</u> - In line with Mediclinic's undertakings to perform the *pro bono* surgeries, it also undertakes to implement a programme within its network of hospitals to engage with and encourage doctors to assist with *pro bono* surgeries.

<u>Skills development and corporate social responsibility initiatives</u> - In terms of funding allocations for medical training, Mediclinic will (for the next three financial years): spend at least R22.5 million on medical training at Wits Donald Gordon Medical Centre (Pty) Ltd, a public-private partnership between Mediclinic and Wits University; sponsor training grants and bursaries for medical training of no less than R30 million in aggregate over the period; and will make donations of no less than R15 million in aggregate over the period to the National Department of Health Public Health Enhancement Fund or similar South African medical training focused institution. On nurses' training, Mediclinic will (for the next five financial years) cover the full annual tuition costs of no fewer than 1700 nursing students at an approximate cost of R80 million.

million (over the next five financial years) in the form of grants or loans to support Unjani Clinics or similar facilities in underserved communities, in the establishment or upgrading of at least 20 clinics and/or mobile health units, aimed at advancing the South African healthcare sector, particularly in underserviced areas.

Procurement - For its next five financia[illegible] will, in aggregate, spend not less than R5 billion on procuring from Black-owned businesses. This will include spend of no less than R2.5 billion on procuring from Black-owned exempted micro-enterprises and/or qualifying small enterprises.

Capital expenditure - Mediclinic will incur no less than R5 billion of capital expenditure in its South African operations for its next five financial years.

Employment – The merged entity will not retrench any permanent or fixed-term contract employees as a result of the merger during a three-year moratorium period.

Employee Benefit Scheme – By the end of an 18-month period, calculated from the merger implementation date, Mediclinic Southern Africa will establish an Employee Benefit Scheme, in accordance with specified design principles. Qualifying workers will be entitled to receive a share of the profit after tax produced by, or within, the Mediclinic Southern Africa group or constituent components of the Mediclinic Southern Africa group. The Employee Benefit Scheme will endure on an evergreen basis.

Information sharing

In addition to the above commitments by Mediclinic, the Tribunal has also imposed conditions on the proposed merger to mitigate concerns relating to the exchange of competitively sensitive information post-merger.