DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 970 **1 October 2021**

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

ADVENT INTERNATIONAL CORPORATION

AND

NIELSEN GLOBAL CONNECT

CASE NUMBER: 2020NOV0027

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 above-mentioned firms subject to conditions as set out below:

1. On 13 November 2020, the Competition Commission (Commission) was notified of an intermediate merger whereby Advent International Corporation (“Advent”), through Advent International GPE IX Limited Partnership (“the Fund”) and certain of its affiliates (together, the “Advent Vehicles,”) intends to acquire indirect sole control of Nielsen. Upon implementation of the proposed transaction, Advent will indirectly control Nielsen.

The parties and their activities

2. The primary acquiring firm is Advent, a company incorporated under the laws of the state of Delaware, United States of America (USA). Advent is not controlled by any firm. Advent, through its controlled portfolio companies, indirectly controls several firms globally. In South Africa, Advent indirectly controls the following firms: Omnipless Manufacturing (Pty) Ltd (“Omnipless”), Röhm Africa (Pty) Ltd (“Röhm Africa”), Unit4 Business Software (Pty) Ltd (“Unit4 Business”), Forescout Technologies UK Limited, an external company and

Thyssenkrupp Elevator (SA) (Pty) Ltd. Advent and the firms directly and indirectly controlled by it will hereinafter collectively be referred to as ("the Advent Group").

3. The Advent Group is a global private equity firm, focused on buyouts and growth equity investments in five core sectors, namely (1) business and financial services, (2) healthcare, (3) industrial, (4) retail, consumer and leisure, and (5) technology. Since its founding, Advent has invested USD 52 billion in over 360 private equity investments across 41 countries, and as of 30 June 2020, managed USD 58.4 billion in assets. Advent seeks to invest in well-positioned companies and partner with management teams to create value through sustained revenue and earnings growth.

4. The primary target firm is Nielsen, a part of Nielsen Holdings Plc, a company incorporated in accordance with the laws of England and Wales. Nielsen is listed on the New York Stock Exchange. Nielsen's issued share capital is widely held by public shareholders and, as such, no firm controls Nielsen. Nielsen comprises several firms globally. In South Africa, Nielsen comprises only of ACNielsen Marketing and Media (Pty) Ltd ("ACNielsen"). Nielsen and the firms directly and indirectly controlled by it will hereinafter collectively be referred to as ("the Nielsen Group").

5. The Nielsen Group provides retail tracking services. It offers a variety of software platforms, data analytics, and consumer panel services that allow clients to optimize their pricing and commercial strategy. Nielsen forms one of two main parts of Nielsen Holdings Plc, the other being Nielsen Global Media.

Competition assessment

6. The Commission considered the business activities of the merging parties and found that the proposed transaction does not result in a horizontal overlap in South Africa, as the Advent Group does not supply products or services that compete (whether actually or potentially) with the products or services supplied by the Nielsen Group in South Africa.

7. In addition, the Commission found that there is no vertical overlap between the activities of the merging parties as none provide a product or service that could be considered as an input in the business activities of another.

8. The Commission is of the view that the proposed transaction is unlikely to change the structure of the market because the Advent Group is not engaged in activities that compete with the Nielsen Group, and there will not be a market share accretion resulting from the proposed transaction. As such, 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

Effect of the merger on employment

9. The merging parties submit that the proposed transaction notified is an international transaction and no job losses in South Africa are anticipated. The Commission requested that the merging parties submit an unequivocal statement on the impact of the proposed merger on employment, however the merging parties were unable to do so. The merging parties instead submitted that Advent has not made any integration plans in relation to the proposed transaction. The merging parties therefore submit that they are not able to conclusively say how the proposed transaction will impact employment in South Africa. Nevertheless, while this is an international transaction and Advent does not anticipate any retrenchments in South Africa as a result of the proposed transaction, Advent wishes to progress the merger review process and obtain clearances expediently. Accordingly, while it is reiterated that Advent has no plans to effect any retrenchments in South Africa because of the proposed transaction, Advent is willing to commit to an employment condition stating that there will be no merger-related retrenchments post-merger for at least two years following the implementation of the merger.

10. The Commission therefore notes that the proposed transaction does not result in a horizontal overlap and thus it is unlikely to result in potential job duplications between the employees of the Advent Group and the Nielsen Group that may necessitate job losses. In addition, the merging parties have agreed to a condition stating that there will be no retrenchments resulting from the proposed transaction for a period of at least two years following the

implementation of the merger. As such, the Commission is of the view that the proposed transaction is unlikely to result in any employment concerns.

11. In addition, the proposed transaction does not raise any other public interest concerns.

12. The Commission therefore approves the proposed transaction with conditions attached in **Annexure "A"**.

ANNEXURE A

ADVENT INTERNATIONAL CORPORATION

AND

NIELSEN GLOBAL CONNECT

CASE NUMBER: 2020NOV0027

CONDITIONS

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1. DEFINITIONS

1.1. The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

1.1.1. **"Acquiring Firm"** means Advent International Corporation;

1.1.2. **"Act"** means the Competition Act, No. 89 of 1998 (as amended);

1.1.3. **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC15) in respect of the Merger;

1.1.4. **"Commission"** means the Competition Commission of South Africa;

1.1.5. **"Conditions"** means these conditions;

1.1.6. **"Days"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;

1.1.7. **"DTIC"** means Department of Trade, Industry and Competition (South Africa);

1.1.8. **"Implementation Date"** means date occurring after the Approval Date, on which the Merger is implemented by the Parties;

1.1.9. **"LRA"** means the Labour Relations Act, No. 66 of 1995, as amended;

1.1.10. **"Merger"** means the acquisition of control by the Acquiring Firm over the Target Firm, which constitutes an intermediate merger for the purposes of the Act;

1.1.11. **"Merged Entity"** means the entity that will result from the Merger between the Parties;

1.1.12. **"Moratorium Period"** means the period between the Approval Date and the Implementation Date and, thereafter, a period of 2 years from the Implementation Date;

1.1.13. **"Parties"** means the Acquiring Firm and Target Firm;

1.1.14. **"South Africa"** means the Republic of South Africa;

1.1.15. **"Target Firm"** means Nielsen Global Connect; and

1.1.16. **"Tribunal"** means the Competition Tribunal of South Africa.

2. RECORDAL

2.1. On 13 November 2020, the Parties notified an intermediate Merger to the Commission wherein Advent International Corporation ("Advent") intends to acquire control over Nielsen Global Connect ("Nielsen"). Following its investigation of the Merger, the Commission found that the Parties were not able to provide a definitive statement that the Merger would not result in any Merger-related retrenchments in South Africa, as it is an international transaction.

2.2. In order to ensure that there will be no Merger-related retrenchments post-merger, the

Commission has imposed a moratorium on Merger-related retrenchments, which the Parties have agreed to.

3. CONDITIONS

3.1. The Parties shall not retrench any employees in South Africa as a result of the Merger, during the Moratorium Period.

3.2. For the sake of clarity, retrenchments do not include (i) voluntary separation arrangements, (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.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

4.1. The Acquiring Firm shall notify the Commission of the Implementation Date within 5 (five) Days of it becoming effective.

4.2. The Parties shall circulate a copy of the Conditions to all their employees and their relevant trade unions or employee representatives in South Africa within 5 (five) business days of the Approval Date.

4.3. As proof of compliance thereof, director of each of the Parties shall within 10 (ten) business days of circulating the Conditions, submit affidavits attesting to the circulation of the Conditions and provide a copy of the notice that was sent to the employees, respectively.

4.4. Any employee of either of the Parties who believes that the Parties have not complied with or have acted in breach of the Conditions may approach the Commission.

4.5. The Acquiring Firm shall submit an affidavit within 20 Days after the anniversary of the Implementation Date to the Commission and the DTIC, confirming compliance with clause 3.1 of the Conditions. This affidavit must be deposed to by a director of the Acquiring Firm.

4.6. The Target Firm shall submit an affidavit within 20 Days after the anniversary of the

Implementation Date to the Commission and the DTIC, confirming compliance with clause 3.1 of the Conditions. This affidavit must be deposed to by a director of the Target Firm.

5. GENERAL

5.1. All correspondence in relation to these Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za and Ministry@thedtic.gov.za.

5.2. 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 Rules for the Conduct of Proceedings in the Competition Tribunal read together with Rule 39 of the Rules for the Conduct of Proceedings in the Competition Commission.

5.3. The Merging Parties or the Target Firm may at any time, on good cause shown, apply to the Commission for the Condition to be waived, relaxed, modified and/or substituted. Should a dispute arise in relation to the variation of the Condition, the Merging Parties and/or the Target Firm, on notice to the Commission, shall apply to the Tribunal, on good cause shown, for the Condition to be waived, relaxed, modified and/or substituted.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298