



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018218

In the matter between:

MODERN MEDIA PROMOTIONS (PTY) LTD

Primary Acquiring Firm

And

MAIN STREET 1132 (PTY) LTD

Primary Target Firm

| | |
|-------------------|--|
| Panel | : Norman Manoim (Presiding Member) |
| | : Dr Imraan Valodia (Tribunal Member) |
| | : Dr Takalani Madima (Tribunal Member) |
| Heard on | : 5 February 2014 |
| Order Issued on | : 5 February 2014 |
| Reasons Issued on | : 19 February 2014 |

Reasons for Decision

Approval

- [1] On 5 February 2014, The Competition Tribunal unconditionally approved the acquisition by Modern Media Promotions (Pty) Ltd of 71% of the issued shareholding in Main Street 1132 (Pty) Ltd.

[2] The reasons for approving the proposed transaction follow.

Parties to transaction

Primary acquiring firm

[3] The primary acquiring firm is Modern Media Promotions (Pty) Ltd ("**Modern Media**"). Modern Media is controlled by Mr. Terry Moolman ("**Mr. Moolman**") trading as the Moolman and Coburn Partnership. Mr. Moolman is able to cast 60% of the votes that may be cast at a general meeting of Modern Media. Mr. Moolman also controls the following firms:

- Afmed (Pty) Ltd ("**Afmed**") through Modern Media's 50.01% stake. The remaining shares are held by Element One Limited ("**Element One**");
- Caxton Limited ("**Caxton**") – Afmed owns 68.77% of Caxton's issued share capital and the Moolman and Coburn Partnership own a further 18.46%. Element One owns the remaining 12.77% of the shares in Caxton;
- Caxton & CTP Publishers and Printers Limited ("**CAT**") – Caxton owns 43.17% of CAT's issued share capital and Mr. Moolman directly or indirectly controls the voting of in excess of a further 6.84% of the shares in CAT.

Primary target firm

[4] The primary target firm is Main Street 1132 (Pty) Ltd ("**Bid SPV**") which is a special purpose company formed for the purpose of the proposed transaction. Bid SPV is a wholly owned subsidiary of Main Street 1131 (Pty) Ltd ("**Fund SPV**"). Fund SPV is owned by Remgro Limited ("**Remgro**") through its wholly owned subsidiary Eikenlust (Pty) Ltd ("**Eikenlust**") and RMB Investments and Advisory (Pty) Ltd ("**RMBIA**") which is a wholly owned subsidiary of First Rand Investment Holdings (Pty) Ltd which is in turn a wholly owned subsidiary of First Rand Limited ("**FRL**").

[5] Fund SPV, Remgro and FRL will not control Bid SPV once the transaction is implemented. Bid SPV will upon implementation control:

- CAT;
- Element One Limited;
- Afmed; and
- Caxton.

[6] Bid SPV and Element One do not control any firms. Afmed however controls Caxton, which in turn owns 43.17% of the issued share capital of CAT. CAT and the firms directly or indirectly controlled by CAT are hereinafter referred to as the “**CAT Group**”.

Proposed Transaction and Rationale

[6] The proposed transaction constitutes a group restructuring which will occur in eleven interdependent and cross conditional steps, the precise details of which are not relevant for our purposes of competition assessment.¹ The move from pre- to post-merger ownership and control can however be set out as follows:

- The transaction results in Modern Media acquiring 71% of Bid SPV's shares. Modern Media accordingly acquires section 12(2)(a) control of Bid SPV. No other firm will control Bid SPV upon implementation;
- Remgro and RMBIA who collectively hold the entire issued share capital of Bid SPV through Fund SPV at the commencement of the transaction will no longer control Bid SPV upon implementation of the proposed transaction;
- Bid SPV will acquire 41.9% (and thus section 12(2)(b) control) of CAT. CAT is however already controlled by Mr. Moolman (who in turn controls Modern Media, who will control Bid SPV post-merger) therefore the acquisition of section 12(2)(b) control accordingly does not give rise to the effective change in control of CAT;

¹ For a full description of the transactional steps see pages 12-15 of the Record repeated on pages 7-10 of the Commission's Report.

- Bid SPV will also acquire 100% of the shares in Element One by virtue of the transaction. Pre-merger Element One holds 18.9% of CAT's shares and upon implementation of the transaction Element One will directly hold 12.77% of the shares in Caxton. Element One also owns 49.9% of the shares in Afmed. Afmed in turn owns 68.8% of the shares in Caxton pre-merger, which owns 43.17% of the shares in CAT pre-merger;
- Element One will acquire 100% of the shares in Afmed by virtue of the proposed transaction and Afmed's shareholding in Caxton will increase to 87.1%;
- Element One will however dispose of its CAT shares and will furthermore no longer hold an interest in CAT or any other firm (besides Caxton) post-merger;
- Caxton will in turn unbundle all its CAT shares and no longer hold an interest in any firm post-merger;
- In fact by virtue of the proposed transaction all three of these holding companies will have disposed of their investments in CAT and will be left as shell companies and ultimately deregistered.

[7] The Acquiring Group views the rationale for the proposed transaction as a simplification of the control structure of CAT which unlocks value for the shareholders of Element One.

[8] The Target Group's rationale for the transaction is that the scheme will allow Element One's shareholders to receive a combination of cash and or a direct shareholding in freely tradable, listed CAT shares.

Relevant Market and Impact on Competition

[9] There is no horizontal or vertical overlap arising from the transaction. The transaction constitutes a group restructuring. Element One, Caxton and Afmed are all investment holding companies that do not supply goods or services. Mr. Moolman, who controls Modern Media and its shareholders and

firms controlled by such shareholders, does not supply goods or services. The activities of the firms where RMBIA and Remgro have controlling or non-controlling interests do not overlap vertically or horizontally with the activities of the CAT Group.

Conclusion

[10] In light of the above we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition. In addition, no public interest issues arise from the proposed transactions. Accordingly we approve the proposed transactions unconditionally.



Norman Manoim

19 February 2014
DATE

Dr Imraan Valodia and Dr Takalani Madima concurring

Tribunal Researcher: Derrick Bowles

For the merging parties: Janine Simpson - Webber Wentzel

For the Commission: Zanele Hadebe and Romeo Kariga