



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018820

In the matter between:

AFHCO PROPRIETARY LIMITED

Primary Acquiring Firm

And

**120 END STREET PROPERTY INVESTMENTS
PROPRIETARY LIMITED**

Primary Target Firm

Panel	: Anton Roskam (Presiding Member)
	: Prof Imraan Valodia (Tribunal Member)
	: Prof Fiona Tregenna (Tribunal Member)
Heard on	: 18 June 2014
Order Issued on	: 18 June 2014
Reasons Issued on	: 16 July 2014

Reasons for Decision

Approval

[1] On 18 June 2014, The Competition Tribunal unconditionally approved the acquisition by AFHCO (Pty) Ltd of the remaining 50% shareholding in 120

End Street Proprietary Investments (Pty) Ltd from Amdec Investments (Pty) Ltd ("**AMDEC**").

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

Parties to transaction

Primary acquiring firm

[3] The primary acquiring firm is AFHCO (Pty) Ltd ("**AFHCO**"). AFHCO is a wholly owned subsidiary of AFHCO Holdings (Pty) Ltd ("**AFHCO Holdings**"). AFHCO Holdings is jointly controlled by the following shareholders:

- Old Mutual Life Assurance Company (SA) Limited ("**OMLACSA**");
- Mr. Wayne Plit;
- Mrs. Renney Plit.¹

[4] The shareholders of AFHCO Holdings sold their 50% interest in AFHCO Holdings to SA Retail (Pty) Ltd ("**SA Retail**"). This acquisition was assessed by the Commission and approved by the Competition Tribunal on 18 June 2014 under Tribunal Case Number 018762. In terms of this transaction AFHCO Holdings is now wholly owned by SA Retail. This transaction is hereinafter referred to as the "**SA Retail / AFHCO transaction**".

[5] OMLACSA is a wholly owned subsidiary of Old Mutual Emerging Markets Limited ("**OMEM**"), which is wholly owned by Old Mutual (South Africa) (Pty) Ltd ("**OMSA**"). OMSA is wholly owned by Old Mutual Netherlands B.V. ("**OM Netherlands**"). OM Netherlands is a wholly owned subsidiary of OM Group (UK) Limited ("**OM UK**"). OM UK is a wholly owned subsidiary of Old Mutual Plc.

[6] AFHCO Holdings holds a 100% interest in the Urban Housing Finance (Pty) Ltd and Protea Glen Housing (Pty) Ltd. AFCHO holds a 50% interest in 120

¹ Mr. Wayne Plit and Mrs. Renney Plit do not control any other firms.

West End Street Property Investments (Pty) Ltd (“**120 End Street Investments**”) and controls the following firms:

- Serfo Investments (Pty) Ltd;
- Ocwen Investment 57 (Pty) Ltd;
- Only The Best Properties 223 (Pty) Ltd;
- Anchor Towers Property Inv. (Pty) Ltd;
- Rainbow Place Properties 80 (Pty) Ltd;
- Morulat Property Investmenst (Pty) Ltd;
- Blazing Fortune Properties 9 (Pty) Ltd;
- Dust Gold Investments 3 (Pty) Ltd;
- Elite Star Properties 3 (Pty) Ltd;
- Rapirop 101 (Pty) Ltd;
- Seimwright Corner Properties (Pty) Ltd.

Note: Hereinafter, reference to the “**Acquiring Group**” bears reference to all of the above listed firms except for OMLACSA.²

Primary target firm

[7] The primary target firm is 120 End Street Investments which is jointly controlled in equal shares by AFHCO and Amdec. Amdec is jointly controlled by the Baker Family Trust and the Rowe Family Trust. Trustees of the Baker Family Trust are:

- James Alexander Wilson;
- Deborah Anne Wilson; and
- John Stuart Wilson.

Trustees of the Rowe Family Trust are:

- John Stuart Wilson;
- Astra Margaret Wilson; and

² This is because OMLACSA sold its selling interest in AFHCO Holdings to SA Retail.

- James Alexander Wilson.

Proposed Transaction and Rationale

- [8] In terms of the Sale of Shares and Claims Agreement, AFCHO is acquiring the remaining 50% of the shares and claims in 120 End Street Investments from Amdec. Upon the acquisition of the remaining 50% shareholding, AFHCO will gain sole control of 120 End Street Investments.
- [9] The rationale for this transaction is for the Acquiring Group and Amdec to give effect to the SA Retail/AFHCO transaction ("**SACREF**"). SACREF expressed an interest in acquiring the remaining 50% issued share capital in End Street and this provided an opportunity for Amdec to sell its interest to AFHCO and in turn enable SACREF to obtain a wholly owned interest in End Street through its proposed acquisition of AFCHO Holdings.

Relevant Market and Impact on Competition

- [10] The Acquiring Group comprises of property investment companies that own office, residential, retail and light industrial properties while 120 End Street is a property investment firm with a portfolio comprising of 11 immovable properties classified as residential, office and retail. An assessment of the property portfolio of the Acquiring Group and that of the target firm revealed a horizontal overlap in respect of:
- rentable residential space within the Johannesburg CBD;
 - rentable retail space in convenience centres within a 6km radius from the Johannesburg CBD;
 - Grade C office space within the Johannesburg CBD node; and
 - light industrial space within the South West Industrial node.

Rentable Residential Space

[11] The Acquiring Group has a property portfolio in excess of 20 rentable residential spaces within the Johannesburg CBD. With respect to the market for the provision of rental space in residential property, the Commission could not find data to determine the estimated market shares of the merging parties. However, the Commission submitted that the merging parties will continue to face competition from 30 firms which currently own residential properties within the Johannesburg CBD.

Retail Rentable Convenience Centres

[12] A horizontal overlap was identified in the Johannesburg CBD in that the 120 End Street Investments retail properties are located within this node and within a narrow 6km radius of the Johannesburg CBD. The merged entities market share in the Johannesburg CBD, based on a GLA estimate, is 14.65% post-merger, with a 2.46% market accretion. It is noted that within the same geographic market the merged entity will continue to face competition from retail centres which have a combined market share of 86.45%.

Rentable Grade C Office Space

[13] Overlaps were identified in the Johannesburg CBD node as 120 End Street Investments has two properties located in the Johannesburg CBD. Therefore only properties within the Acquiring Group which are located within the Johannesburg CBD were considered for purposes of this assessment.


[14] The Acquiring Group's market shares based on a GLA estimate is 1.11% post merger with a 0.82% accretion, which is deemed too minimal to raise competition concerns.

Provision of rentals in industrial property

[15] AFHCO and 120 End Street Investments jointly own an industrial property within the South West industrial node. This is the only such property within their respective portfolios and thus this transaction does not result in an accretion of market share nor does it alter the structure of the market.

Conclusion

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



Prof Inraan Valodia

16 July 2014
DATE

Anton Roskam and Prof Fiona Tregenna concurring

Tribunal Researcher: Derrick Bowles

For the merging parties: Susan Meyer – Cliffe Dekker Hofmeyr

For the Commission: Dineo Mashego, Xolela Nokele and Seema Nunkoo