COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 019109

In the matter between:

STANDARD BANK OF SOUTH AFRICA LIMITED	Primary Acquiring Firm(s)
And	
LC GOLF SA (PROPRIETARY) LIMITED	Primary Target Firm(s)

Panel	: Yasmin Carrim	(Presiding Member)
	: Takalani Madima	(Tribunal Member)
	: Andiswa Ndoni	(Tribunal Member)
Heard on	: 09 July 2014	
Order Issued on	: 09 July 2014	
Reasons Issued on	: 31 July 2014	

Reasons for Decision

Approval

[1] On 09 July 2014 the Competition Tribunal ("the Tribunal") unconditionally approved an acquisition by Standard Bank South Africa Ltd of LC Golf SA (Pty) Ltd.

[2] The reasons for unconditionally approving the transaction follow hereunder.

Parties to the Transaction

Primary acquiring firm

[3] The primary acquiring firm is Standard Bank of South Africa Limited ("Standard Bank"). Standard Bank is a financial services group offering, *inter alia*, transactional banking, saving, lending and investment services. Standard Bank is listed on the Johannesburg Securities Exchange and, as such, is not controlled by any single shareholder. For the sake of completeness, Standard Bank's principal shareholders are as follows:

- Industrial and Commercial Bank of China (20.1%);
- Public Investment Corporation (13.8%); and
- Tutuwa Participants (5.5%).

Primary target firm

[4] The primary target firm is LC Golf SA (Pty) Ltd ("LCG"). LCG controls Pearl Valley Golf Estate (Pty) Ltd ("PVGE") and Novelway Investments (Pty) Ltd ("Novelway"). LCG is controlled by Leisurecorp LCC ("Leisurecorp"), a firm incorporated in terms of the laws of the Emirate of Dubai. Leisurecorp is ultimately controlled by Dubai World Holdings Ltd.

Proposed Transaction and Rationale

[5] In 2007, Standard Bank advanced funding to PVGE. As security for PVGE's indebtedness, LCG committed itself as limited recourse guarantor, Novelway bound itself as surety and co-principal debtor, and the entire issued share capital of PVGE was pledged to Standard Bank.

[6] Due to the challenging economic climate of 2008 and following, PVGE was unable to meet its payment obligations to Standard Bank and it was agreed as between Standard Bank and Leisurecorp that Standard Bank would acquire the entire issued share capital of LCG.

[7] While the Competition Act[1] ordinarily requires competition authority approval prior to the implementation of transactions of this nature,[2] this transaction was in fact completed in December 2012. At that time the parties were exempted from notifying the transaction in terms of the Competition Commission's ("the Commission") Practice Note entitled "*The application of merger provisions of the Competition Act to risk mitigation financial transactions*" ("the Practice Note"). The Practice Note allows for an exemption period of 12 months. [3] Following the expiry of that 12 month period, the Commission granted an extension of six months and that extended period is to expire shortly. The parties have now notified the transaction and seek approval from the Competition Tribunal in order to comply with the provisions of the Act.

Relevant Market and Impact on Competition

[8] In light of the above, reaching a conclusion on the relevant market was deemed unnecessary and the Commission identified no competition concerns.

Public Interest

[9] The Commission identified no public interest concerns likely to arise from the proposed transaction.

Conclusion

[10] Accordingly we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant market, however defined. Further, the merger does not raise any public interest concerns that

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[1] Act No. 89 of 1998 (as amended), ("the Act")

[2] Section 13A of the Act

[3] The Practice Note essentially provides that when a financial institution (in this case Standard Bank), in the ordinary course of business, is a party to a transaction that is purely financial in nature and that would ordinarily constitute a notifiable merger, the Commission will exempt the transaction from merger notification regulations for a specific period. Should that specific period lapse and the financial institution remain in control of the asset(s) acquired in terms of the aforementioned transaction, the ordinary merger filing regulations become effective.

might alter that conclusion and accordingly, we approve the transaction unconditionally.

31 July 2014

DATE

Ms Yasmin Carrim

Dr Takalani Madima and Ms Andiswa Ndoni concurring.

Tribunal Researcher: Shannon Quinn

For the merging parties: Judd Lurie- Bowman Gilfillan

For the Commission: Thelani Luthuli