COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case no: 04/LM/Jan05

In The Large Merger Between:

Liberty Group Ltd

And

Capital Alliance Holdings Ltd

Reasons for Decision

Approval

On 17 March 2005 the Competition Tribunal issued a Merger Clearance Certificate approving the transaction between Liberty Group Ltd and Capital Alliance Holdings Ltd. The reasons for this decision follow.

The Transaction

Liberty Group Ltd ("Liberty") is acquiring all the shares, other than those already held by Liberty, Liberty Active Limited and Capital Alliance Special Finance (Pty) Ltd, in the issued ordinary share capital of Capital Alliance Holdings Ltd ("Capital Alliance"), by way of a scheme of arrangement, in terms of section 311 of the Companies Act 61 of 1973 as amended. Post merger, Capital Alliance will be a subsidiary of Liberty.

From Capital Alliance's perspective, the transaction will place it in a better position strategically as it will become an integral part of the Liberty Group with full access to the brand, financial and other resources of the Liberty Group.[1] According to Liberty, the transaction provides it with, *inter alia*, access to Capital Alliance's experience in improving the efficiency of the administration of life books as well as access to new markets via Capital Alliance's lower income client base and sales force. The transaction also provides Liberty with the potential to achieve certain economies of scale and efficiencies over time.[2]

The Relevant Market

Both parties are registered long-term insurers and offer individual and group insurance products.[3] The Commission and parties differed in their definition of the relevant market.

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[1] See Page 639 of the record.

[2] See Page 3 of the transcript of 17 March 2005. At page 11, Mr Ian Maron from Liberty states *"…that by integrating with Capital Alliance bringing some* [of] *their process and system models ...that they've used successfully at a lower cost than* [Liberty] *…*[Liberty] *can achieve value enhancement within Liberty and still allow… the Capital Alliance acquisition model to continue into the future once the integration between the two local entities has take place."*

[3] Liberty also offers retail investment management, asset management and healthcare products in the form of a medical scheme marketed through its subsidiary Liberty Healthcare. Standard Bank Group Limited, which ultimately controls Liberty, is active in the broader banking, insurance (through Liberty),

While the parties identified two separate relevant markets, viz. the provision of Individual Policies and the provision of Group Business, the Commission defined a broad market for the provision of long-term insurance. The Commission based its definition on the fact that an insurer, which is issued with a license to render long-term insurance, has a choice to either provide group cover and/or individual cover. Therefore, according to the Commission, from a supply side substitution point of view, an insurer, which renders group cover, can render individual cover and visa versa.[4]

Evaluating the merger

For these purposes, it is not necessary to make a definitive finding on the relevant markets, as we are of the view that the merger will not result in a substantial lessening of competition. On the parties' definition, the transaction raises no competition concerns due to the difference in business focus of the parties. With regard to Individual policies, Liberty focuses *inter alia* on writing new policies (selling new business), while the Capital Alliance business model is based on acquiring and managing existing "books" of individual policies. Furthermore, to the extent that it has a sales focus, Capital Alliance is focused on the lower to middle income segments for Individual policies. Liberty on the other hand is focused on the middle to upper income segments.[5] According to the parties therefore, they are not strictly speaking, direct competitors in the Individual policy market.

With respect to Group policies, Liberty focuses on "packaged" solutions, which include fund administration, investment and risk underwriting, as well as investment only policies. Capital Alliance, however, focuses mainly on "risk only" business i.e. in respect of risk underwriting.[6] Therefore, for Group policies the parties are also focused on different segments of the markets.

Even if one accepts the Commission's definition of the relevant market, the transaction does not raise any serious concerns. The following tables, provided to us by the parties,[7] contain the market shares of the merging parties and their subsidiaries, for the *long-term insurance market* based on net premiums, value of assets and value of liabilities. The relevant subsidiaries of the merging parties are Rentmeester,[8] Saambou Life[9] and Investec Employee Benefits.[10]

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financial and property services market. The Capital Alliance group is also involved in the property industry and in investment holding.

[4] See page 5 of the Commission's report.

[5] See page 15 of the transcript of 17 March 2005. Maron states: *"… although it* [Liberty] *has a lot of product development expertise,* [it] *has not really had a big penetration into the lower income markets in terms of distribution. Liberty's brand and focus has been towards the upper end of the market…"*

[6] Capital Alliance mainly offers group risk insurance products independently to retirement funds and employers.

[7] Correspondence to the Tribunal dated 15 March 2005. The Commission and parties' initial assessment of the transaction was based on the Financial Services Board's 2002 data. At the hearing, however, the Tribunal furnished the parties with updated 2003 data and requested the parties to revise their tables.

[8] Rentmeester Assurance Limited was acquired by Capital Alliance earlier this year. See 103/LM/Dec04

[9] Saambou Life Assurers Limited is a wholly owned subsidiary of Capital Alliance.

[10] Liberty acquired a part of the business of Investec Employee Benefits in 2003. See 32/LM/Jun03.

Market shares based on net premiums

Insurer	Market Share 2002	Market Share 2003
Rentmeester	0,14%	0%
Capital Alliance	1,23%	2,89%
Saambou Life	0,21%	0%
Liberty Group	8,12%	9,95%
Investec Employee Benefits	2.95%	1,99%
Old Mutual	19,09%	17,80%
Sanlam	12,86%	12,09%
Momentum Group	9,12%	9,30%
Investment Solutions	7.01%	9,06%
Investec[11]	13,71%	7,82%
Others	25.56%	29,10%
TOTAL	**100%**	**100%**

Accordingly, the estimated post-merger market share of the merged entity, based on net premiums received, will be 14,83%.

Market shares based on value of assets

Insurer	Market Share 2002	Market Share 2003
Rentmeester	0,04%	0%
Capital Alliance	2,30%	2,16%
Saambou Life	0,12%	0,05%
Liberty Group	10,09%	10,68%
Investec Employee Benefits	3,55%	2,59%
Old Mutual	30,23%	30,06%
Sanlam	18,52%	18,91%
Momentum Group	10,92%	11,06%
Investment Solutions	5,52%	5,17%
Others	18,71%	18,78%
TOTAL	**100%**	**100%**

The estimated post-merger market share of the merged entity, based on value of assets, will be 15,48%.

Market shares based on value of liabilities

Insurer	Market Share 2002	Market Share 2003
Rentmeester	0,04%	0%
Capital Alliance	2,36%	2,2%
Saambou Life	0,09%	0,05%

[11]The reference to Investec relates to Investec Assurances and excludes Investec Employee Benefits.

Liberty Group	9,91%	10,66%
Investec Employee Benefits	3.61%	2,4%
Old Mutual	28,91%	29,44%
Sanlam	17,96%	18,4%
Momentum Group	12,03%	11,37%
Investment Solutions	6,06%	5,71%
Others	19,03%	19,77%
TOTAL	**100%**	**100%**

Accordingly the estimated post-merger market share of the merged entity, based on value of liabilities, will be 15,31%.

Therefore, even on the Commission's broad definition of the relevant market, the increment in market share is not significant to raise any serious competition concerns.

Public Interest

The Tribunal was concerned that the parties had not properly notified their employees of the effect of the merger on the employment. While the parties had furnished the Commission with a "worst case scenario" with regard to retrenchments, the Tribunal was of the view that employees had not been sufficiently informed of the potential impact of the transaction. During a hearing held on 10 March 2005, the parties were ordered to inform their employees, in writing, of the potential worst-case scenario. The parties were to also inform the employees that they should forward any concerns directly to the Tribunal.

The Tribunal received correspondence from some employees and during a second hearing held on 17 March 2005, the parties were asked to give an undertaking that they would address the employee concerns that were sent to the Tribunal. The parties furnished the Tribunal with said undertaking before the merger order was issued.

The transaction is accordingly approved unconditionally.

<u>22 April 2005</u>

N Manoim **Date**

Concurring: Y Carrim and L Reyburn

For the merging parties: I Gaigher (Jowell Glyn & Marais) and D Rudman (Werksmans)

For the Commission: R Mohlala and E Mtantato (Mergers and Acquisitions)