COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 106/LM/Dec06

In the matter between:

Tsebo Outsourcing Group (Pty) Ltd Acquiring Firm

And

Equality Food Services (Pty) Ltd Target Firm

Panel	:	Y Carrim (Presiding Member), N Manoim (Tribunal Member) and M Mokuena (Tribunal Member)
Heard on	:	07 February 2007
Order issued on	:	07February 2006
Reasons issued on	:	11 May 2007

Reasons for Decision

APPROVAL

1]On 7 February 2007 the Tribunal approved the merger between Tsebo Outsourcing Group (Pty) Ltd ("Tsebo") and Equality Food Services (Pty) Ltd ("Equality"). The reasons for approval follow below.

THE TRANSACTION

2]Tsebo is acquiring 100% of the issued share capital in Equality. Post merger, Equality will be a wholly owned subsidiary of Tsebo.

3]Tsebo is controlled by Ethos Private Equity Fund IV through a 53.8% shareholding. Ethos Private Equity Fund IV is ultimately controlled by Ethos Investment Holding Ltd. Tsebo has three operating divisions, being Food Services which operates under the brand name Fedics and Facilities

Management Services which conducts its business through Drake & Scull FMSA and Invalu which focuses on procurement of Food & Beverage commodities.

4]The shareholders of Equality are:

Gregg Lacon-Allin	68%
Khumo Bathong Strategic Investments (Pty) Ltd	16%
Bheki Gumede	8.5%
Frank Davidson	8.5%

5]Equality is mainly focussed on providing catering services to the mining sector and Fedic's regards this transaction as an opportunity to enhance its current service offering. The transaction offers Equality an opportunity to enhance its BEE status.

THE RELEVANT MARKET

6]Both parties are active in the food services sector where they provide catering services.

7]Fedics, the food and auxiliary services division of Tsebo provides catering services to a broad spectrum of customers ranging from corporations to educational and healthcare institutions, including industrial, construction and mining nationally.

8]Although Equality provides catering and related services to the mining industry, collieries, tertiary institutions, schools, hospitals and recreation clubs nationally, the bulk of its services, for historic reasons, are provided to the mining industry.

9]For purposes of this transaction the relevant market is regarded as the national market for the provision of catering services.

Impact on Competition

10]Catering contracts are generally awarded via a tender process with the duration of contracts ranging from 2 to 5 years. According to the merging parties the number of bidders tendering for a contract range from approximately 15 to as much as 100 companies, depending on the type of contract being offered. Fedics and Equality have not bid against each other for any contract in the past year. Post the transaction the merging parties market share will be approximately 12%.

11]Strong countervailing power exist since clients who offer these contracts are large companies who have the ability to offer these services in-house, but choose not to in order to focus on their core business. According to the merging parties almost half of all catering services are still provided in-house. The competitive constraint is thus derived from the ability of clients to substitute outsourced catering services for in-house services.

12]Barriers to entry are low as there are no legal, technical or economic barriers to hinder a new competitor from entering. In the past five years 5 new firms have entered this market.[1]

13]Based on the above, we agree with the Commission that the transaction is unlikely to substantially prevent or lessen competition in the relevant market.

CONCLUSION

14]There are no significant public interest issues and we accordingly approve the transaction without conditions.

<u>11 May 2007</u>

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Y Carrim Date

1 According to the Commission Mr. Hoerau of Sodexho claimed that the proposed transaction would raise entry barriers for the smaller players. However, upon further investigation the Commission found this not to be the case.

N Manoim and M Mokuena concurring.

Tribunal Researcher:	R Badenhorst
For the merging parties:	K de Kock (Webber Wentzel Bowens)
For the Commission:	E Ramohlola (Mergers & Acquisitions)