

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 127/LM/Nov07

In the matter between:

Blue Beacon Investments 190 (Pty) Ltd

Acquiring Firm

And

Pamodzi Investment Holdings (Pty) Ltd

Target Firm

Panel : D Lewis (Presiding Member), Y Carrim (Tribunal Member) and M Mokuena (Tribunal Member)

Heard On : 19 December 2007

Decided on : 19 December 2007

Reasons Issued on : 23 January 2008

Reasons for Decision

Approval

[1] On 19 December 2007 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Blue Beacon Investments 190 (Pty) Ltd and Pamodzi Investment Holdings (Pty) Ltd unconditionally. The reasons appear below.

Parties

[2] The acquiring firm is Blue Beacon Investments 190 (Pty) Ltd (“SPV”) a company incorporated under the laws of the Republic of South Africa. SPV is controlled by Batsalani Industrials (Pty) Ltd (“Batsalani Industrials”). Batsalani Industrials is a wholly owned subsidiary of Batsalani Holdings (Pty) Ltd (“Batsalani”).¹ [3] The target firm is Pamodzi Investment Holdings (Pty) Ltd (“PIH”), a company incorporated under the laws of South Africa. The individual founders of PIH have 55% in PIH.²

Transaction

¹ Batsalani controls the following firms: Batsalani Junior Mining; Bastalani Communications; Bastalani Properties. Bastalani is not controlled by any firm. Its shareholders are: Khan Family Trust 37.05%; Abrahams Family Trust 33.25%; Central Education Trust 12.35%; Sunset Trust 12.35% and Staff and Management 5%.

² The remaining shares in PIH are held as follows: Shady Grove Investments (Pty) Ltd 15.68%; PIH (Pty) Ltd 14.86%; Pambi Trust 8%; Pamodzi Investment Holdings Share Trust 0.71%; Pamodzi Trust 3.80% and Pamodzi Employee 1.9%. For a list on PIH subsidiaries see page 3-4 of the Commission’s report.

[4] Batsalani, through SPV intends to acquire 20% of the entire issued share capital of PIH.

Rationale

[5] Batsalani seeks to leverage its seed capital for higher returns from a diversified BEE portfolio, and to be a leading shareholder in a fast-growing specialised private equity investor in South Africa, which it hopes to accomplish through the purchase of a share in PIH. For the target firm the transaction provides an opportunity to increase ownership by women in PIH. The transaction also provides the target firm with an opportunity to liquidate/convert shares into cash. Lastly it was submitted that the transaction will result in the re-introduction of equity into PIH lost through the buy-back of shares from certain minority shareholders.

Parties' Activities

[6] Batsalani Industries and SPV are newly formed shelf companies created for purposes of the present transaction. Batsalani has interests in various sectors, including telecommunications, media and technology, mining/resources, property as well as private equity sectors. Batsalani also has interests in the information technology sector through a company called Gateway Telecoms ("Gateway").³

[7] PIH is an investment holding company with interests in various sectors, including food, information technology, industrial manufacturing, financial services, mining/resources, automotive and leisure industries. PIH's interests in the information technology sector are through a company called Namitech.⁴

Competition Analysis

[8] An examination of the transaction by the Commission revealed that although both the merging parties have interests in mining, they don't offer the same/overlapping products within those sectors. According to the Commission, in mining Batsalani's interest are in platinum whereas PIH's are in coal and gold mining. The Commission also considered the effect of the proposed transaction in the information technology sector and found that the activities of Gateway Telecoms⁵ and Namitech do not overlap.⁶ Furthermore neither of the

³ Gateway provides communications services which include voice data, electronic commerce and management services to mobile and fixed telecoms operators. It is also in the process of rolling out a pay TV broadcasting service in South Africa through its subsidiary GTV.

⁴ Namitech provides secure technology solutions aimed at facilitating trusted card technology, payment solutions and digital trust services.

⁵ Gateway Telecoms is a company involved in the telecommunication activities that are aimed at providing quality communications to mobile and fixed line operators.

merging parties hold controlling interests in these companies. We therefore agree with the Commission that the proposed transaction is unlikely to substantially prevent or lessen competition. .

Public Interest Issues

[9] There are no public interest issues.

Conclusion

[10] Based on the above, we find that the transaction will not result in a substantial lessening or prevention of competition in the identified markets and is accordingly approved unconditionally.

Y Carrim

Tribunal Member

D Lewis and M Mokuena concurring.

Tribunal Researcher : J Ngobeni

For the merging parties : Cliffe Dekker Inc

For the Commission : Ipeleng Selaledi

23 January 2008

Date

⁶ Namitech is a company that is involved in offering solutions that are aimed at facilitating trusted card technology payment solutions.