



**competitiontribunal**  
*south africa*

## *fax form*

<i>to</i>	Tamara Dini/Nadisha Singh Bowman Gilfillan Inc Lerisha Naidu Cliffe Dekker Hofmeyr	<i>fax</i>	021 424 1688  011 562 1554
	Legal Services Competition Commission		44283
<i>ref</i>	29/LM/Apr11	<i>date</i>	08 June 2011
<i>from</i>	Tebogo Mputle	<i>pages</i>	4 (including this page)
<i>re</i>	Reasons		

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Attached please find the Tribunal's reasons for the decision in the above matter.

Regards

Tebogo Mputle

CC: Zanele Hadebe - 44583



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 29/LM/Apr11

In the matter between:

**Business Venture Investments No. 1473 (Pty) Ltd** Acquiring Firm

And

**McDonald's (S.A.) (Pty) Ltd** Target Firm

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Panel	:	Andreas Wessels (Presiding Member)
		Medi Mokuena (Tribunal Member)
		Andiswa Ndoni (Tribunal Member)
Heard on	:	25 May 2011
Order issued on	:	26 May 2011
Reasons issued on	:	08 June 2011

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### Reasons for Decision

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#### Approval

[1] On 26 May 2011 the Competition Tribunal ("Tribunal") approved the proposed transaction involving Business Venture Investments No. 1473 (Pty) Ltd and McDonald's (S.A.) (Pty) Ltd. The Tribunal's reasons for approving the transaction are set out below.

#### Parties to the proposed transaction

[2] The acquiring firm is Business Venture Investments No. 1473 (Pty) Ltd which is to be renamed Shanduka Restaurants Company (Pty) Ltd ("Shanduka Restaurants"), a private company duly incorporated in accordance with the laws of the Republic of South Africa, and controlled

by Shanduka Group (Pty) Ltd ("Shanduka"), the parent company of the Shanduka group of companies.<sup>1</sup>

- [3] The target firm is McDonald's (S.A.) (Pty) Ltd ("McDonald's"), a private company registered in accordance with the laws of the Republic of South Africa, which is ultimately controlled by the New York Stock Exchange listed McDonald's Corporation.<sup>2</sup>
- [4] In terms of the proposed transaction, Shanduka Restaurants intends to acquire the entire issued share capital of McDonald's. The transaction also involves the conclusion of a Master Franchise Agreement between the parties to the merger which will grant Shanduka Restaurants the right to own, operate and license others to operate McDonald's branded restaurants in South Africa.

#### **Rationale for the proposed transaction**

- [5] Shanduka Restaurants submitted that the proposed transaction will enable the Shanduka group to broaden its investment portfolio through diversification into a growing market and further raise the group's global profile.
- [6] McDonald's Corporation stated that it is part of their global strategy to seek operational growth for their operations, through local ownership, in line with its Developmental Licensee model, which has been successfully implemented worldwide. It further held the view that the Shanduka group can drive its business in South Africa, developing and realizing the long term growth potential that exists for the McDonald's brand in the country.

#### **Activities of the merging parties and product overlap**

- [7] Shanduka is a private investment holding company with an investment portfolio comprising of investments in the resources, financial services, property, energy, telecommunications, beverages and industrial sectors.
- [8] McDonald's Corporation operates 32 000 restaurants globally in over 117 countries. The target firm, being the South African part of this global restaurant group, is in the fast food industry and operates and franchises McDonald's branded restaurants in the informal eating out sector. The Shanduka group premerger does not operate in the informal eating out sector.
- [9] As is clear from the above description of the merging parties' activities, they do not sell or provide any products or services in South Africa that can be considered reasonably interchangeable or substitutable. Furthermore, no vertical relationships exist between the merging parties.

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<sup>1</sup> <http://www.shanduka.co.za/>

<sup>2</sup> <http://www.mcdonalds.co.za/>

## **Public interest**

[10] The merging parties confirmed that no job losses or retrenchments are anticipated as a result of the proposed transaction and no other public interest issues arise from this transaction.

## **Conclusion**

[11] Given that there is no horizontal product/service overlap in the merging parties' activities and that there are also no vertical relationships between the merging parties, the proposed merger is approved without conditions.

  
\_\_\_\_\_  
**A Wessels**

08 June 2011  
**Date**

## **M Mokuena and A Ndoni concurring**

Tribunal Researcher: Songezo Ralarala  
For the merging parties: For the target firm: Tamara Dini and Ineke Bosman  
from Bowman Gilfillan Attorneys  
For the acquiring firm: Mondo Nthla and Lerisha  
Naidoo from Cliffe Dekker Hofmeyr Attorneys  
For the Commission: Zanele Hadebe

\* \* \* Communication Result Report ( 8. Jun. 2011 11:43 ) \* \* \*

1)  
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Date/Time: 8. Jun. 2011 11:35

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		00214241688		OK	
		44283		OK	

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