



**COMPETITION TRIBUNAL OF SOUTH AFRICA**

**Case No: LM112Aug15**

In the matter between:

**Masana Petroleum Solutions (Proprietary) Limited**                      Primary Acquiring Firm

and

**BP Southern Africa (Proprietary) Limited**  
**with respect to the Mining Lubricants and**  
**Specialty Chemicals Divisions**    Primary Target Firms

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Panel    : Medi Mokuena (Presiding Member)  
    : Anton Roskam (Tribunal Member)  
    : Andiswa Ndoni (Tribunal Member)  
Heard on    : 21 October 2015  
Order Issued on                                : 21 October 2015  
Reasons Issued on                             : 18 November 2015

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**Reasons for Decision**

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**Approval**

- [1]    On 21 October 2015, the Competition Tribunal ("Tribunal") unconditionally approved the merger between Masana Petroleum Solutions (Proprietary) Limited ("Masana") and BP Southern Africa (Proprietary) Limited.
- [2]    The reasons for approving the proposed transaction follow.

## **Parties to transaction**

### *Primary acquiring firm*

- [3] The primary acquiring firm, Masana is controlled by BP South Africa which is in turn controlled by BP Global Investments Ltd, which is a wholly owned subsidiary of BP plc. Masana is involved in the distribution of petroleum products such as petrol.

### *Primary target firm*

- [4] The Target firms are the distribution channel of the Mining Lubricants and Speciality Chemicals Divisions ("Target Businesses") of BP. The Target Businesses do not control any firm. The Target Businesses are involved in the distribution of mining lubricants and speciality chemicals.

## **Proposed transaction and rationale**

- [5] In terms of the proposed transaction Masana will acquire the Target businesses as a going concern. Pursuant to the transaction Masana will own and control the Target Businesses while BP will retain indirect control of the Target Businesses.
- [6] The merging parties submitted that the proposed transaction is in line with their business strategy to increase BEE ownership.

## **Impact on competition**

- [7] The Commission, when investigating the activities of the merging parties found that there is no overlap between the merging parties because Masana is not active in the distribution of mining lubricants and speciality chemical products.
- [8] The Commission found that the proposed transaction would result in a vertical relationship as Masana would be responsible for the distribution of mining lubricants and speciality products. The Commission is of the view that the vertical relationship identified would not result in foreclosure concerns as there are no

third party distributors that would be foreclosed as a result of the merger because the status quo post-merger remains unchanged. Based on this, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition.

[9] The Tribunal accepts the Commission's findings and find that the vertical overlap, does not present any foreclosure concerns. We therefore conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any market within South Africa.

#### **Public interest**

[10] The merging parties confirmed that the proposed transaction will not result in an adverse impact on employment.<sup>1</sup> The proposed transaction further raises no other public interest concerns.

#### **Conclusion**

[11] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transactions. Accordingly, we approve the proposed transaction unconditionally.

  
**Ms Medi Mokuena**

18 November 2015

**DATE**

**Mr Anton Roskam and Ms Andisa Ndoni concurring**

Tribunal Researcher:	Aneesa Ravat
For the Target Firm:	Anton Roets of Nortons Inc
For the Acquiring Firm:	Nkonzo Hlatshwayo of Webber Wentzel
For the Commission:	Billy Mabatamela, Seema Nunkoo and Xolela Nokele

<sup>1</sup> *Inter alia* merger record page 8.