

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case no.: 25/LM/Apr04

In the large merger between:

Tsebo Outsourcing Group (Pty) Ltd

And

Drake & Scull FM (SA) (Pty) Ltd

Reasons for Decision

Approval

1. On 19 May 2004 the Competition Tribunal issued a Merger Clearance Certificate approving the transaction between Tsebo Outsourcing Group (Pty) Ltd and Drake & Scull FM (SA) (Pty) Ltd. The reasons for this decision follow.

The Parties

2. The primary acquiring firm is Tsebo Outsourcing Group (Pty) Ltd ("Tsebo"). Tsebo is controlled by Trillion Nominees (Pty) Ltd, which is a wholly owned subsidiary of Ethos Private Equity Fund IV ("Ethos"). Tsebo's other shareholders are Nozala Investments (Pty) Ltd and Siphumelele Investments Limited.
3. Tsebo controls the following companies; Fedics (Pty) Ltd, BJ's Franchising (Pty) Ltd, Kraal Kraft (Pty) Ltd, Mr Rooster's Golden Crispy Chicken (Pty) Ltd, Drake & Scull FM (SA) (Pty) Ltd, Air Caterers Johannesburg (Pty) Ltd, Aerofare (Pty) Ltd and Fedlink (Pty) Ltd.
4. Ethos controls the following companies: Defy Limited, Dunlop Tyres International (Pty) Ltd, The Magic Company Investments (Pty) Ltd, Idwala Investment Holdings (Pty) Ltd, Pleasure Foods (Pty) Ltd and Cobra Watertech Group (Pty) Ltd and Tsebo.
5. The primary target firm is Drake & Scull FM (SA) (Pty) Ltd ("DSFM"). DSFM is jointly controlled by Emcor Drake & Scull Group Plc ("Emcor") (50%) and Tsebo(50%).
6. DSFM controls Drake & Scull Management Services (Pty) Ltd, Drake & Scull Technical Services (Pty) Ltd and Umongi Facilities Services (Pty) Ltd.

The Transaction

7. Tsebo is increasing its shareholding in DSFM by acquiring Emcor's interest in DSFM. Post merger, Tsebo will therefore hold 100% of the issued share capital in

DSFM.. The transaction is subject to *inter alia* a technical assistance agreement being concluded between Tsebo and Emcor. The technical assistance agreement will enable DSFM to continue to benefit from Emcor's expertise through, *inter alia*, access to systems development and access to some of Emcor's key staff.

Rationale for the Transaction

8. According to the parties, through Tsebo's 50% shareholding, DSFM had an effective BEE equity ownership of 22%, which was insufficient to secure contracts from government, parastatal entities and other major clients. By increasing Tsebo's shareholding, DSFM's empowerment credentials are improved in order for it to confidently tender for government contracts.

The Parties' Activities

9. Through its various subsidiaries, Tsebo is involved in the following markets: Food services (Fedics (Pty) Ltd), Facilities management services (DSFM), Fast Food (BJ's and Mr Rooster's) and a diverse range of outsourcing catering and related services in South Africa. Although Fedics is involved in some auxiliary services such as the provision of cleaning and hygiene services, these services are not provide directly by DSFM, who manage other contract providers rather than providing the services themselves.
10. Ethos invests in companies in exchange for equity in the company, entitling it to a participatory management role.
11. DSFM is a facilities management services company which provides non-core management activities to its clients such as:
 - Strategic planning of everything relating to a working environment, such as space planning, process planning and systems planning;
 - Managing and maintaining building and assets; and
 - Business support such as cleaning, mail, messenger services, gardening, landscaping, security and catering.
12. From the above, apart from Tsebo's existing stake in DSFM, it appears that there is no overlap in the activities of the merging entities.

Impact on competition

Public Interest

13. The transaction increases the ownership stakes of historically disadvantaged persons.

Conclusion

14. We conclude that the merger will not lead to a substantial lessening of competition and there are no significant public interest concerns. Accordingly, we agree with the Commission's recommendation that the transaction be unconditionally approved.

Norman Manoim

21 May 2004
Date

Concurring: David Lewis and Thandi Orleyn

For the merging parties: T Mhlanga and J Meijer (Cliffe Dekker Inc)

For the Commission: Maarten Van Hoven and Elvis Ramafamba (Mergers and Acquisitions)