

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 45/LM/Jun04

In the large merger between:

Lonmin Plc

and

Eastern Platinum Limited and Western Platinum Limited

Reasons for Decision

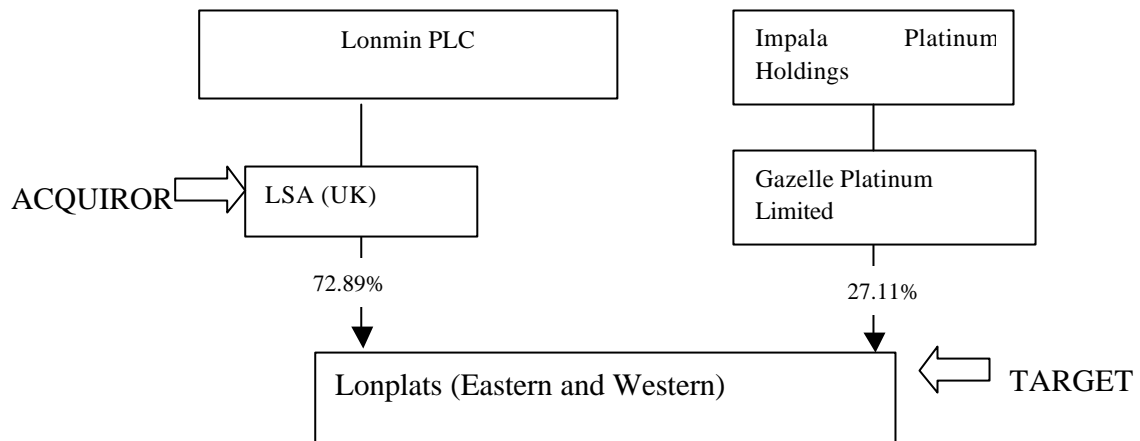
APPROVAL

On 14 July the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Lonmin Plc and Eastern Platinum Limited and Western Platinum Limited (collectively “Lonplats”) in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The primary acquiring firm is LSA (UK) Limited (“LSA”), which is a wholly owned subsidiary of Lonmin Plc, registered in the UK. Notwithstanding control of various overseas firms, the only subsidiary with which we are concerned for the purposes of this merger, is Lonmin’s control over Lonplats in South Africa, in which it holds a 72.89% stake.
2. The primary target firms are Eastern Platinum Limited and Western Platinum Limited (together referred to as “Lonplats”).
3. Pre-merger, Impala Platinum Holdings (“Implats”), holds the remaining 27.11% stake in Lonplats through Gazelle Platinum Limited (“Gazelle”), its wholly owned subsidiary. Pre-merger Implats had joint control over Lonplats with Lonmin. In terms of the Principals’ Agreement, each were entitled to appoint half of the Board of Directors of Lonplat. Therefore, pre-merger, Lonplats is jointly controlled by Lonmin and Implats, despite the disparity in their respective shareholdings. The pre-merger shareholding structure over the target firms is illustrated below.

Pre-Merger Structure



Historically disadvantaged South Africans (“HDSA’s”)

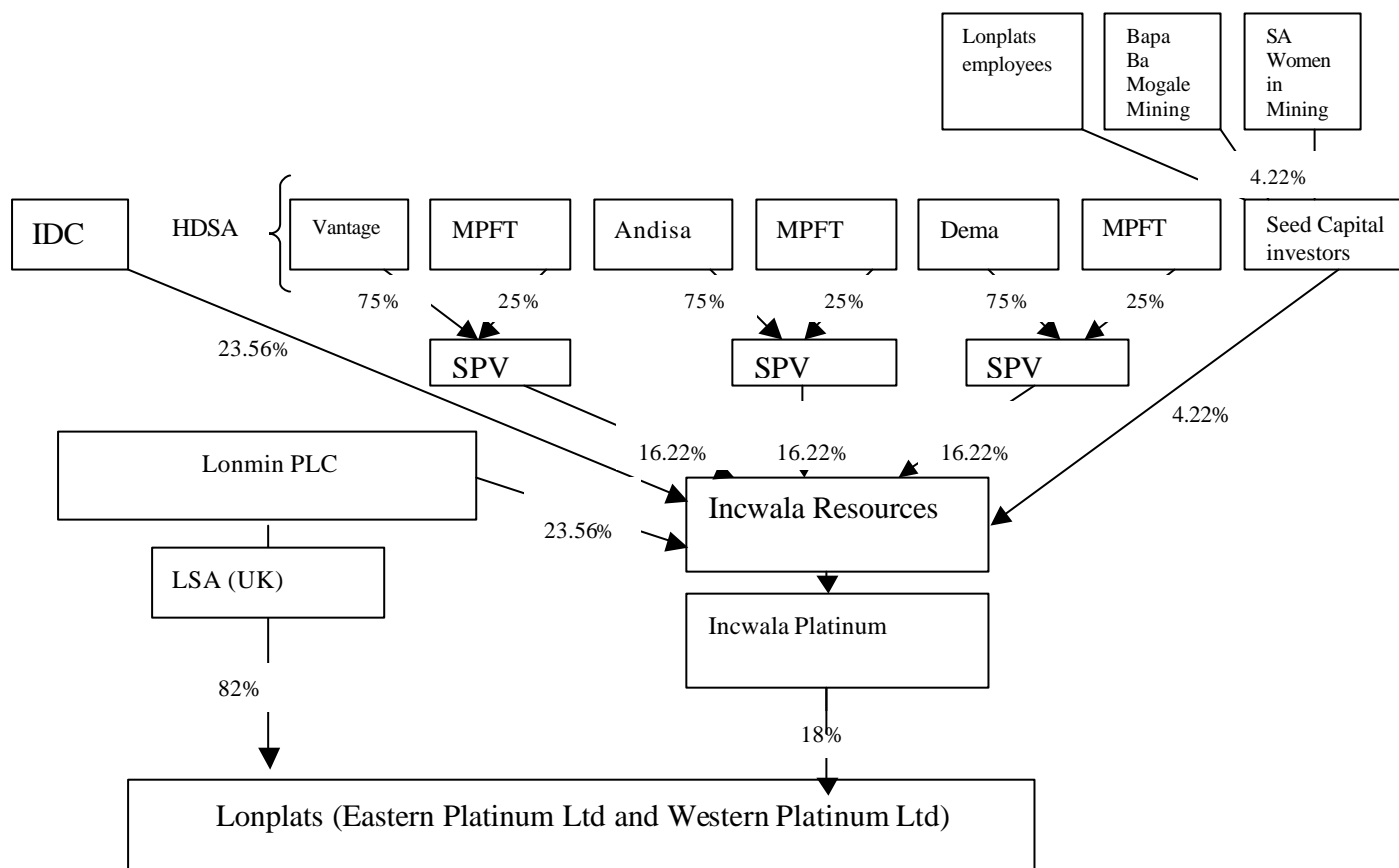
4. In addition, this merger, in accordance with the Miring Charter, affords various HDSA’s access to the sector. This transaction will create a new player in the PGM market, known as Incwala Platinum (Pty) Ltd and its subsidiary, Incwala Resources (Pty) Ltd (“Incwala Resources”). For reasons which become clear later, this new player will acquire an 18% stake in Lonplats.
5. Shareholders of Incwala will comprise various BEE firms from previously disadvantaged communities as follows:
 - (i) Vantage Capital Resources (Pty) Ltd;
 - (ii) Dema Consortium represented by Dema Capital (Pty) Ltd;
 - (iii) Andisa Capital (Pty) Ltd.

The Merger Transaction

6. Implats is disposing of its 27.11% stake in Lonplats with the ultimate shareholding structure to appear as follows¹:

¹Originally, 6 BEE firms would have held shares in Incwala directly, however we were advised at the hearing of the matter that 3 of the firms had been unable to raise the requisite funding for their stakes. Therefore the shares were split amongst the other 3 BEE investors and MPFT, Lonmin employees. Under the new structure, the three BEE firms will hold their stakes in Incwala via three SPVs. The ultimate shareholding between Incwala and Lonmin remains unchanged.

Post-Merger Structure



7. The parties pointed out that there is no real difference in essence between the seed investors, and the BEE firms, (Andisa, Dema and Vantage). Both groups represent HDSAs and will post-merger account for a 52.88% shareholding in Incwala Resources. Shareholding in Incwala Resources will be broken down as follows:

IDC	23.56%
Lonmin	23.56%
Seed Investors	4.22%
SPV's	48.66%
Total	100%

8. Therefore, post-merger, Lonplats will be controlled:
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As to 82% by Lonmin
As to 18% by Incwala (itself controlled by HDSAs)

Rationale

9. The primary rationale for this transaction is that it resolves a longstanding dispute between Lonmin and Impala over the status of their shareholder's agreement. It was agreed that Impala would sell its stake but that this represented an opportunity for both the present shareholders to introduce an empowerment shareholder. In terms of the Mining Charter, both Lonmin and Implats will benefit from equity/ownership points in the mining scorecard through their contribution to empowerment. This is effected by introducing a 50%+ investor in Incwala.
10. The departure of Implats at Board level leaves Lonmin in sole control and thus removes certain deadlocks that had been present under the joint control arrangement. For its part, Implats benefits from a significant release of value to its shareholders.

Competitive Assessment

11. All parties are involved in the platinum sector.²
12. The Competition Commission elected not to define any markets in greater detail since Implats is disposing of its joint interest and there is no concentration resulting from this merger. We too see no need to define a market in a transaction where nothing turns on a more precise definition.
13. There is no market share accretion – Lonmin's only interest in the platinum sector in SA is its shareholding in Lonplats. It has a market share of 12.9% in the global platinum market.³ We are satisfied that the increased stake in Lonplats will not give Lonmin any strategic advantage in terms of its being able to act anti-competitively.
14. The merger has strong empowerment credentials – the 18% player, Incwala, will be owned as to 52.88% by previously disadvantaged South Africans. We are particularly persuaded by the nature of the broad-based empowerment of the deal and the fact that the HDSAs are new players in the market insofar as none of these HDSA investors have had any previous involvement in the PGM sector.

² This forms part of the PGM sector ("platinum group metal" - Palladium, platinum, iridium, osmium, rhodium and ruthenium)

³ This accords with our assessment of it accounting for 12.4% of global market share in the Pandora JV/Rustenberg Platinum Merger.

Conclusion

We conclude that the merger will not lead to a substantial lessening of competition and therefore approve the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

D. Lewis

26 July 2004
Date

Concurring: N. Manoim, M. Madlanga

For the merging parties:	Deneys Reitz Attorneys Cliffe Dekker Attorneys
For the Commission:	E. Ramafanda, M. van Hoven, Competition Commission