

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 46/LM/May07

In the matter between:

Public Investment Corporation Limited

Acquiring Firm

And

CBS Property Portfolio Limited

Target Firm

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

Heard on : 18 July 2007

Order Issued : 18 July 2007

Reasons Issued: 13 September 2007

Reasons for Decision

Approval

- 1] On 18 July 2007, the Tribunal unconditionally approved the merger between the Public Investment Corporation Limited and CBS Property Portfolio Limited. The reasons for approving the transaction follow.

The parties

- 2] The primary acquiring firm is the Public Investment Corporation Limited ("PIC"), acting in its capacity as agent to the Government Employees Pension Fund. PIC is not controlled by any firm, and is an investment management company wholly owned by the South African Government.
- 3] PIC controls various firms. For the purposes of this transaction the following

firms controlled by PIC are relevant:

- [3.1] ADRIASA (Pty) Ltd;
 - [3.2] Black Ginger 33 (Pty) Ltd;
 - [3.3] Van Noppen Properties (Pty) Ltd;
 - [3.4] 1/1350 Zwartkop Centurion (Pty) Ltd;
 - [3.5] Erf 3342 Phalaborwa (Pty) Ltd; and
 - [3.6] Pareto Limited (40%), which is jointly controlled with ESKOM Pension and Provident Fund.
- 4] The primary target firm is CBS Property Portfolio Limited (“CBS”), a company incorporated under the company laws of the Republic of South Africa. CBS is a public company listed on the JSE Securities Exchange and is not controlled by any single firm. CBS controls various firms.¹

Description of the transaction

- 5] PIC is acquiring all of the units linked in issue in CBS, other than those it already holds.² The proposed transaction will result in PIC acquiring control of all the properties in the CBS property portfolio.

Rationale for the transaction

- 6] The PIC intends to increase the property portfolio under its management to account for 5-8% of the total assets under PIC’s management.

The parties’ activities

- 7] PIC is an investment management company that invests in various asset classes, including properties. PIC’s property portfolio consists of office

¹ The firms controlled by CBS include Yieldgro Properties Limited, Riverband Trade and Investment 4 (Pty) Ltd, CBS Property Management (Pty) Ltd, Nelesco 531 (Pty) Ltd, Clifton Dunes Investment 399 (Pty) Ltd, Chestnut Hill Investments 266 (Pty) Ltd, Robstocks Parking Garage Shareblock (Pty) Ltd, and 35 Wales Street Parking Garage Shareblock (Pty) Ltd.

² PIC currently holds approximately 13.1% of the CBS linked units in issue.

properties, retail properties, industrial properties, residential properties, specialised use properties and vacant land.³

- 8] CBS is a variable rate property loan stock company. It is listed on the Financial Services: Real Estate Holding and Development sector of the JSE Securities Exchange. CBS derives its income from rentals paid by tenants occupying its properties. CBS's property portfolio consists of office properties, rental properties, industrial properties, residential properties, hotel properties and property used for educational purposes.⁴

Competition analysis

- 9] The Commission submitted that there is no overlap in the activities of the parties with regards to light industrial property, and retail property markets. There is a slight overlap in the activities of the parties in the office property market. In that regard, the Commission submitted that merging firms have a combined post merger market share for grade P office space in Sandton node of 2.6%, for grade A office properties in the Sandton node, 11% for grade B office property in the Midrand node and 3.6% for light industrial property in the Midrand node. These market shares are small and do not raise competition concerns. As a result, the proposed transaction is unlikely to substantially prevent or lessen competition.

Public Interest

- 10] There are no public interest issues.

Conclusion

- 11] The merger is approved unconditionally.

D Lewis

Tribunal Member

13 September 2007

DATE

³ See p310-318 of the record for a complete list of the properties implicated by this transaction.

⁴ See p310-318 of the record for a complete list of the properties implicated by this transaction

Y Carrim and M Mokuena concur in the judgment of D Lewis

Tribunal Researcher : **R Kariga**

For the merging parties: M Van Hoven, Jowell Glyn and Marais Attorneys

For the Commission : M Dasrath and M Mohlala (Mergers and
Acquisitions)