

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 93/LM/Nov06

In the matter between:

Autumn Storm Investments 362 (Pty) Ltd

Acquiring Firm

And

Outdoor Network (Pty) Ltd

Target Firm

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

Heard on: 4 December 2006

Order and Reasons issued on: 4 December 2006

Reasons for Decision

APPROVAL

- 1] On 4 December 2006, the Tribunal approved the merger between Autumn Storm Investments 362 (Pty) Ltd (“Autumn Storm”) and Outdoor Network (Pty) Ltd (“Outdoor”). The reasons for approval follow.

THE TRANSACTION

- 2] Autumn Storm intends acquiring 100% of the entire issued share capital of Outdoor as well as all the claims against Outdoor.
- 3] The shareholders of Autumn Storm are Zungu Investments Company (Pty) Ltd (“Zungu”), Sanlam Limited (“Sanlam”) and the management of Outdoor.¹ The largest shareholders of Outdoor are Z.Sisulu, RMB Corvest Limited, Derek Arthur Family Trust and F H & V Durban (Pty) Ltd.²

¹ See page 25 of the Commission’s record for the detailed structure of Zungu.

² See page 380-1 of the Commission’s record.

- 4] The transaction introduces a black economic empowerment partner to Outdoor and is in line with Zungu's ambitions for participating in the media industry. According to the parties, the silent shareholders in Outdoor have indicated their intentions to exit the company.³

THE PARTIES' ACTIVITIES

- 5] Outdoor provides outdoor advertising on billboards, street furniture, in-store point of sales, trailers and promotional items. Autumn Storm is a new company and has not commenced trading. Sanlam is involved in life insurance, investment, short-term insurance and independent financial services. According to the parties, none of the companies which Sanlam has an interest in, provides similar products and/or services as those provided by Outdoor.
- 6] Zungu is an investment holding company with interests in the following areas: forensics, healthcare, financial services, resources, mining exploration, recruitment, security services, contract cleaning and cash management. Sarhwi Investment Holdings Ltd, a subsidiary of Zungu, has a 10% interest in Screen World (Pty) Ltd, a company providing similar products and/or services in Gauteng. ⁴
- 7] According to the parties, Zungu also intends acquiring a one third stake in Izimpondo Communications (Pty) Ltd, which is involved in publishing, communication services, public relations and investment in media companies. Izimpondo's main business is the production of a newspaper title "Umafrika." ⁵

IMPACT ON COMPETITION

- 8] There appears to be no overlap in the activities of the parties. The parties nevertheless submit that Outdoor accounts for 12% of the national outdoor

³ Page 61 of the Commission's Record.

⁴ Page 63 of the Commission's record.

⁵ Page 63-4 of the Commission's record.

advertising market.

- 9] Although the challenge of obtaining municipal approval in a specific area seems to be a critical barrier to entry in the outdoor advertising market, we are nevertheless satisfied that the transaction does not raise any significant competition concerns, given the fact that there is no history of collusion in the industry and customers exert significant countervailing power.

CONCLUSION

- 10] There are no public interest concerns⁶ and we accordingly approve the transaction without conditions.

D Lewis

M Moerane and M Mokuena concurring.

Tribunal Researcher: M Murugan-Modise

For the merging parties: T Molokomme and N Browne (Cliffe Dekker)

For the Commission: S Maphumulo and H Ratshisusu (Mergers and Acquisitions)

⁶ During the hearing, the parties stated that they had no intention of retrenching any employees.