

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case no.: 96/LM/Dec02**

**In the large merger between:**

**New Tsogo Sun Holdings (Pty) Ltd**

**and**

**Southern Sun Holdings Ltd/Tsogo Sun Holdings (Pty) Ltd**

---

**Reasons for Decision**

---

**Approval**

The Competition Tribunal issued a Merger Clearance Certificate on 24 February 2003 approving the merger without conditions. The reasons are set out below.

**The merger**

*The parties to the transaction*

- Tsogo Investment Holding Company (Pty) Ltd (“**TIH**”) is an investment holding company, which is a black empowerment group, not controlled by any firm.
- SABSA Holdings (Pty) Ltd (“**SABSA**”) is a wholly owned subsidiary of South African Breweries International (Finance) BV in the Netherlands, which is wholly owned by SABMiller plc in England. SABSA manufactures, bottles and distributes beer and soft drinks in South Africa and also holds hotel and gaming interests in the form of its wholly owned subsidiary Southern Sun Holdings (“**SSH**”).
- New Tsogo Sun Holdings (“**NTSH**”) a special purpose vehicle created for purposes of the transaction. It will be controlled jointly by TIH (holding 51% of

the shares) and SABSA (holding 49% of the shares).

### *The transaction*

The transaction involves the disposal by TIH and SABSA of their respective hotel and gaming interests to NTSH. The assets being acquired by NTSH are the gaming assets of TIH and SSH.

On completion of the transaction, SABSA will own 49% of NTSH and TIH the remaining 51%. Following this transaction, Southern Sun Gaming Investments (Pty) Ltd will be liquidated and NTSH will form two new subsidiaries, Gaming Holdco to house the gaming assets and Hotel Holdco to house the hotel assets.

Although the structure of the transaction appears complex, the overall changes are simple. Prior to the merger TIH and SABSA jointly held gaming interests 49% and 51% respectively through their joint venture company. This balance in holding is now reversed and TIH has 51% while SABSA has 49%. The other change is that the hotel interests that SABSA formerly held outside of the JV, now form part of the JV and thus effectively enlarges the interests held by the JV. The JV will divide its interests into two main subsidiaries one containing the gaming interests and the other the hotel interests.

### *Rationale for the transaction*

SABMiller and TIH have been associated through a joint venture company Tsogo Sun Holdings (Pty) Ltd (“Tsogo Sun JV”) since 1994. SABMiller wants to divest of its hotel and gaming interests held in SSH, which it regards as non-core. The proposed transaction will facilitate SABMiller’s divestiture strategy for its hotel and gaming assets while at the same time supporting and facilitating the JV’s original empowerment and expansion strategies.

### **Effect on competition**

Two relevant markets are involved, the gaming market and the short-term accommodation market.

The gaming market consists of a number of casinos throughout South Africa that compete on a regional basis. Tsogo Sun JV currently operates 5 casinos of the existing 30 casinos in South Africa. These include the MonteCasino (Gauteng), Champions Casino (Mpumalanga), Emnotweni Casino (Mpumalanga), Emonti Casino Resort (Eastern Cape) and the Suncoast Casino (KwaZulu-Natal). It also controls 6 hotels in South Africa, Emnotweni Sun (Nelspruit), Express by Holiday Inn (Nelspruit), Hemingways (East London) Palazzo Inter-Continental (Johannesburg), The Ridge (Witbank) and Sandton

Convention Centre (Sandown).

In the short-term accommodation market Tsogo Sun and Southern Sun respectively control 6 and 68 hotels. Their products overlap in the following geographic markets: East London, Johannesburg, Midrand and East Rand, Witbank, Nelspruit and Cape Town. Southern Sun managed all the Tsogo Sun hotels in terms of an arms length management agreement before the merger. This will continue after the merger.

Of the 14370 rooms<sup>1</sup> available in the Johannesburg, Midrand and East Rand area the merged entity will own 27.8%. In East London the merged entity will own 14.2% of the total of 1702 rooms available, in Nelspruit the merged entity will own 25.6% of the 1064 rooms available, in Witbank 32.5% of the total of 283 rooms available and in Cape Town 18.3% of the available 13346 rooms.

The merger will thus not have an effect on competition in the gaming market since this transaction amounts to a restructuring of assets. The gaming assets were previously jointly controlled by the merging parties and will, post the merger, be controlled by New Tsogo Sun Holdings. New Tsogo Sun Holdings will ultimately be controlled by Tsogo Investment Holdings and SABSA. This is also a regulated industry with the National Gambling Act, 33 of 1996, providing for the granting of a maximum of 40 licences to be distributed across each of the 9 provinces of South Africa.

With regard to the short-term accommodation market we agree with the Commission that the transaction will not substantially prevent or lessen competition in this market. Apart from a large number of Bed & Breakfast venues and guest houses there are also well-known international players present in this market. Barriers to entry are low and international hotel groups such as The Hyatt Hotel, The Hilton Hotel, The Sheraton and Days Inn have entered the market in recent years.

### **Public interest**

The transaction will not result in any retrenchments and does not raise any other public interest grounds.

**N. Manoim**

14 March 2003

**Date**

**Concurring: D. Lewis and F. Fourie**

---

<sup>1</sup> Rooms referred to in this paragraph includes grade 1-5 hotels and also B & B's and Guest Houses

For the merging parties: Webber Wentzel Bowens Attorneys.

For the Commission: L. Mtanga, Competition Commission