

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 99/LM/Dec00

In the large merger between:

The Chase Manhattan Corporation

and

JP Morgan and Company Incorporated

Reasons for the Approval

APPROVAL

1. On 13 December 2000 the Competition Tribunal issued a merger clearance certificate approving the merger between The Chase Manhattan Corporation and J.P. Morgan and Company Incorporated without conditions in terms of section 14(3)(a). The reasons for the approval of the merger appear below.

The merger transaction

2. The Chase Manhattan Corporation ("Chase Manhattan") is acquiring JP Morgan and Company Incorporated ("JP Morgan"). The merger will be effected by the conversion of JP Morgan common and preference stocks into Chase Manhattan common and preference stocks. The merged firm will be named J.P. Morgan Chase & Company.
3. Both firms are registered in the United States and based in New York City and have subsidiaries worldwide. In South Africa the merger will entail the combination of the merging firms' various subsidiaries. This report will deal only with those subsidiaries of the merging firms who participate in the same markets.
4. Both parties are involved in the financial services industry; in their opinion their services complement rather than compete with each other. They claim that the merger will result in huge cost savings for them worldwide. In the assessment of the parties a larger bank balance and pool of expertise resulting from the merger will enable them to offer new services to their clients in South Africa.

EVALUATING THE MERGER

5. As mentioned above the merging parties conduct their business in the financial services industry. By virtue of the interpretation given by the Supreme Court of Appeals to section 3(1)(d) of the Act¹ we have confined our assessment of the effect of this merger on competition to the non-banking activities of the merging parties in South Africa.
6. Chase Manhattan conducts a variety of non-banking activities in the corporate finance services market in South Africa through one of its wholly owned subsidiaries, Robert Fleming Holdings SA Ltd (“Robert Fleming”). The corporate finance services provided by Robert Fleming include equities research and trading services, advice on mergers and acquisitions and general corporate advice. The Commission estimates that Robert Fleming’s market share in this industry is less than ten (10) percent.
7. According to the Commission J.P. Morgan is a new entrant in the corporate finance services market. It conducts most of its activities in the corporate finance services market through JP Morgan Securities South Africa (“JPMSSA”), a wholly owned subsidiary. Some of its non-banking activities are housed within its banking subsidiary in South Africa, Morgan Guaranty Trust of New York. The parties estimate JP Morgan’s market share at less than one (1) percent.
8. The merging parties also participate in the market for bond trading. Chase Manhattan conducts its business in the market for bond trading through its subsidiary Robert Fleming. Robert Fleming, through a subsidiary, Fleming Martin Securities Limited, buys and sells listed bonds on behalf of clients. The parties estimate that Robert Fleming’s share of this market is approximately five (5) percent. Robert Fleming does not structure or underwrite bond issues.
9. JP Morgan, through JPMSSA, provides bond advisory services to clients. Services provided to clients in this market by JPMSSA are limited to structuring and underwriting bond issues. According to the merging parties JPMSSA does not participate in the market for the buying and selling of bonds except for its own account or pursuant to its market-making obligations as arrangers of bond issues.

The relevant market

10. There are two product markets that are relevant for purposes of this transaction. First, the market for the provision of corporate finance services and second, the

¹ *Standard Bank Investment Corporation Ltd v Competition Commission and Others; Liberty Life Association of Africa Ltd v Competition and Others 2000 (2) SA 797 (SCA)* – the Court interpreted section 3(1)(d) of the Act to provide that all industries that are subject to public regulation fall outside the ambit of the Act. It held that the banking industry was regulated the Banks Act 94 of 1990 and therefore the proposed merger between Stanbic and Nedcor did not have to be notified with the Competition Authorities in terms of the Competition Act.

market for trading in bonds. The bond trading market can be divided into a primary market, which involves the structuring and underwriting of bonds on behalf of clients, and a secondary market, in which bonds are bought and sold.

11. The relevant geographic market is national. Although the subsidiaries of the merging parties relevant to this transaction are based in Johannesburg, clients can source their services nationwide.

Impact on competition

12. The Tribunal agrees with the Commission that this merger will not result in the lowering or prevention of competition in either of the relevant markets identified above.
13. The information provided to us by the Commission and the parties suggests that JP Morgan is a relatively new and small player with less than one percent of the market share in the corporate finance services market. Even though the merging parties presently compete with each other in this market, the merger will not materially affect the structure of the competition given the small share of the market currently held by JP Morgan. The parties have argued that this market is any event very competitive.
14. In terms of the Commission report there is very little overlap between the businesses of the merging parties in the bond trading market. Chase Manhattan participates in the primary trade in bonds; they structure and underwrite bond issues on behalf of clients. As appears above Chase Manhattan's activities in the secondary bond trading market is for its own account or pursuant to its market-making obligations as arrangers of bond issues. JP Morgan, on the other hand, participates exclusively in the secondary bond trading market for the benefits of its clients.
15. The Commission submitted that the two markets referred to above are very competitive markets and the merger would not result in the parties gaining market power. In the opinion of the Commission the parties clients in both markets also possess some degree of countervailing power.
16. The Tribunal agrees with the Commission's assessment of the effect of the merger on competition and is satisfied that the merger will not result in lessening or prevention of competition in any market.

N.M. Manoim

21 December 2000
Date

Concurring: D.H. Lewis; D. Terblanche