



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM219Feb17

In the matter between:

**GOVERNMENT EMPLOYEES PENSION FUND
AND COMPENSATION FUND DULY REPRESENTED
BY PUBLIC INVESTMENT CORPORATION SOC LIMITED**
and

Primary Acquiring Firms

LA CRUSHERS PROPRIETARY LIMITED

Primary Target Firm

Panel : Andiswa Ndoni (Presiding Member)
: Medi Mokuena (Tribunal Member)
: Fiona Tregenna (Tribunal Member)
Heard on : 03 May 2017
Order Issued on : 03 May 2017
Reasons Issued on : 02 June 2017

Reasons for Decision

Approval

[1] On 03 May 2017, the Competition Tribunal ("Tribunal") approved the proposed transaction involving Government Employees Pension Fund and Compensation Fund duly represented by Public Investment Corporation SOC Limited and LA Crushers (Pty) Ltd.

[2] The reasons for approving the proposed transaction follow.

Parties to proposed transaction

Primary acquiring firm

- [3] The primary acquiring firms are the Government Employees Pension Fund ("GEPF") and Compensation Fund ("CF") duly represented by Public Investment Corporation SOC Limited ("PIC").¹
- [4] The GEPF is a juristic person established by section 2 of the Government Employees Pension Law, No 21 of 1996.
- [5] The GEPF has interest in various asset classes including equities, fixed interest instruments, money market instruments, and unlisted investments, properties, including office and retail, industrial and residential property and Isibaya Fund.
- [6] The CF is controlled by its Boards established by section 10 of the Compensation for Occupational injuries and Diseases Act, 130 of 1993 ("COIDA") and in terms of section 12 of COIDA.

Primary target firm

- [7] The primary target firm is LA Crushers (Pty) Ltd ("LA Crushers"), a company incorporated in accordance with the laws of the Republic of South Africa. LA Crushers is not controlled by any firm. LA Crushers does not control any firm.

Proposed transaction

- [8] The PIC will acquire controlling shares in LA Crushers in its capacity as an agent of the GEPF and CF.
- [9] In terms of the proposed transaction, the PIC intends to increase its shareholding in LA Crushers from 13% to 88% on behalf of the GEPF and the CF. Upon implementation of the proposed transaction, the GEPF will own 44% of the issued shareholding in LA Crushers and the CF will also own 44% of the issues shareholding in LA Crushers. The PIC will control LA Crushers in its capacity as an agent of GEPF and CF.

¹ The PIC acts as a fund manager to the GEPF.

Impact on competition

- [10] The PIC is acting in its capacity as the duly authorised representative of the GEPF and the CF which invest in various classes of assets including equities, property and fixed income which the PIC has been appointed to manage. The PIC is a financial service provider and is the only asset manager that serves South Africa's public sector. It is an investment management company wholly owned by the South African Government.² LA Crushers is a load and haul materials handling service provider. The company's service and product offerings comprise mining load and load and haul, civil and earthworks, materials handling, crushing and screening, magnetite handling, ready mix production and mining rehabilitation. LA Crushers operates in Phalaborwa, in the Limpopo Province.
- [11] The Competition Commission ("Commission") considered the activities of the merging parties and found there is no overlap, as the PIC does not have controlling interest in firms that are involved in the load and haul materials handling service.
- [12] Therefore, the Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market in South Africa. We concur with the Commission's conclusion.

Public interest

- [13] The merging parties confirmed that the proposed transaction will not have an adverse effect on employment in South Africa.
- [14] Furthermore, the proposed transaction does not raise any other public interest concerns.

Conclusion

- [15] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no

² Please see para 17-18 page 11 of the CC recommendation. Please see para 3.1.1 -3.1.4 pages 50 and 51 of Competition Report

public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.



Ms Andiswa Ndoni

02 June 2017
DATE


Mrs Medi Mokuena and Prof Fiona Tregenna concurring

Tribunal Case Manager: Busisiwe Masina

For the merging parties: Kitso Tlhabanelo and Albert Aukema of Cliffe Dekker
Hofmeyr Inc

For the Commission: Zintle Siyo

public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.



Ms Andiswa Ndong

12 June 2017
DATE

Mrs Medi Mokuena and Prof Fiona Tregenna concurring

Tribunal Case Manager: Busisiwe Masina

For the merging parties: Kitso Tlhabanelo and Albert Aukema of Cliffe Dekker
Hofmeyr Inc

For the Commission: Zintle Siyo