



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM039Jun20

In the matter between

Investec Bank Ltd

Primary Acquiring Firm

And

Omwieco (Pty) Ltd

Primary Target Firm

Panel	: E Daniels (Presiding Member)
	: Y Carrim (Tribunal Member)
	: AW Wessels (Tribunal Member)
Heard on	: 13 July 2020
Order Issued on	: 13 July 2020
Reasons Issued on	: 15 July 2020

REASONS FOR DECISION

Approval

- [1] On 13 July 2020, the Competition Tribunal (“Tribunal”) unconditionally approved the proposed transaction in terms of which Investec Bank Ltd (“Investec Bank”) is acquiring control over Omwieco (Pty) Ltd (“Omwieco”).
- [2] The reasons for the approval of the proposed transaction follow.

Parties to the transaction

- [3] The primary acquiring firm, Investec Bank is a wholly owned subsidiary of Investec Ltd, which is listed on the JSE. Investec Ltd is not controlled by any

single shareholder. Investec has interests in various industries, *inter alia*, in the financial and property sectors. Of relevance to this proposed transaction are the activities of Investec Property Group Holdings Proprietary Limited ("Investec Property Holdings"), which ultimately controls two subsidiaries, namely, Extension 24 Commercial Leasing Company Proprietary Limited ("Extension 24") and Huddle Investments Proprietary Limited ("Huddle Investments") that are involved in developing and selling residential property in Gauteng.

- [4] Investec Property Holdings and its subsidiaries will be collectively referred to as the Investec Property Group.
- [5] Investec Bank focuses on investment banking, treasury and specialised finance, private client activities and asset management.
- [6] The target firm is Omwico, which is controlled in equal proportions by Investec Bank and two other shareholders who will be referred to as "the sellers". Omwico does not control any firm.
- [7] Omwico is a property development company engaged in the development of freehold and sectional title unit residential properties in the Somerset Lakes Lifestyle Estate in Somerset Lakes, Somerset West in the Western Cape. Omwico only has one property development being the Somerset Lakes Lifestyle Estate. At the time of notification, Omwico consisted of 33 built residential units and 244 unbuilt residential stands.

Proposed transaction and rationale

- [8] Investec Bank intends to acquire the remaining shareholding and associated shareholder claims of Omwico from the sellers. Post-merger Investec Bank will have sole control of Omwico.

Relevant market and impact on competition

- [9] The Competition Commission (“Commission”) identified a horizontal overlap between the activities of the merging parties as they are both active in the market for the development and sale of residential properties. The Commission, however, found that there is no geographic overlap as Investec Property Group’s residential property activities are in Gauteng. Given the distance between the respective properties of the merging parties, it seems unlikely that the one would act as a constraint on the other. The Commission is, therefore, of the view that the proposed transaction is unlikely to alter the structure of any of the affected markets.
- [10] The Commission also found a vertical overlap, because Investec Bank currently provides senior debt funding to Omwico. The vertical link is also of concern to a competitor of Omwico. The concerned competitor submitted that Omwico may compete on funding terms and conditions that are not market related post-merger. The Commission found that the vertical relationship between Investec Bank and Omwico already exists pre-merger and the concern is, therefore, not merger specific.
- [11] The Commission further found that Investec Bank is already a shareholder in Omwico and that the financing arrangement is not introduced by the proposed transaction. Lastly, the Commission found that there are numerous financial institutions directly competing against Investec Bank and that there are unlikely to be foreclosure concerns arising from the proposed transaction.
- [12] Due to the above, the Commission concluded that the merger is unlikely to result in a substantial lessening of competition in the market for the development and sale of residential property. We found no reason to disagree with the Commission.

Public interest

- [13] The proposed transaction raises no public interest concerns.

Conclusion

[14] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approved the proposed transaction unconditionally.

Mr Enver Daniels

15 July 2020

Date

Ms Yasmin Carrim and Mr Andreas Wessels concurring.

Tribunal Case Manager : Kgothatso Kgobe

For the Merging Parties : D Arteiro and S Rodze of Werksmans Inc.

For the Commission : B Chomela