



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM232Mar17

In the matter between:

EASTERN PLATINUM LIMITED.

Primary Acquiring Firm

and

THE PANDORA JOINT VENTURE.

Primary Target Firm

Panel	: Ms Andiswa Ndoni (Presiding Member)
	: Prof Imraan Valodia (Tribunal Member)
	: Prof Fiona Tregenna (Tribunal Member)
Heard on	: 17 May 2017
Order Issued on	: 17 May 2017
Reasons Issued on	: 12 June 2017

Reasons for Decision

Approval

[1] On 17 May 2017, the Competition Tribunal ("Tribunal") approved the proposed transaction between Eastern Platinum Limited ("Eastern Platinum") and the Pandora Joint Venture ("Pandora").

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

Parties to the Proposed Transaction

Primary Acquiring Firm

- [3] The primary acquiring firm is Eastern Platinum, a firm incorporated in accordance with the laws of the Republic of South Africa. It is a subsidiary of Lonmin plc ("Lonmin"), a public company incorporated in terms of the laws of the United Kingdom. Lonmin controls a number of firms globally, including Western Platinum (Pty) Ltd ("Western Platinum").
- [4] Lonmin is active in the discovery, extraction, refining and marketing of Platinum Group Metals (PGMs). Lonmin also produces gold, nickel, copper and chrome by-products.

Primary Target Firm

- [5] The primary target firm is Pandora, an unincorporated joint venture currently owned by Eastern Platinum (50%), Rustenburg Platinum Limited (42.5%) and Northam Platinum Limited (7.5%). Pandora is currently jointly controlled by Rustenburg Platinum and Eastern Platinum.
- [6] Rustenburg Platinum Limited ("Rustenburg Platinum") is a firm incorporated in accordance with the laws of the Republic of South Africa and is a wholly owned subsidiary of Anglo American Platinum Limited ("Anglo American Platinum").
- [7] Pandora is engaged in the mining of PGM bearing ore. Pandora also produces ore which contains by-products, including nickel, copper, chrome ore and gold.

Proposed Transaction and Rationale

- [8] Eastern Platinum will acquire Rustenburg Platinum's 42.5% interest in Pandora, thereby increasing its interest in Pandora to 92.5%. Post-transaction, Lonmin, through Eastern Platinum, will exercise sole control over Pandora.

- [9] In terms of the rationale, Lonmin wishes to consolidate its position in the Pandora operations, which it already manages, through Eastern Platinum. Anglo American Platinum considers its interest in Pandora to be a non-core interest, from which it wishes to exit in order to focus on its more competitive assets.

Relevant Market and Impact on Competition

- [10] The Commission considered the activities of the merging parties and found that there is a potential horizontal overlap in the global market for the production and supply of platinum, palladium, gold, copper, nickel and the global and national market for the production of chrome ore. The Commission analysed these as six separate markets.

- [11] Further, the Commission found that the proposed transaction gives rise to a vertical overlap as Pandora is engaged in the upstream mining of PGM bearing ore which is used in the downstream processing of ore by Lonmin. The Commission, therefore, identified two relevant vertical markets, namely (i) the upstream market for the mining of PGM bearing ore and (ii) the downstream market for the processing of ore.

Horizontal Overlap

- [12] The Commission is of the view that the proposed transaction will not impact the structure of the relevant markets since Lonmin already effectively controls 50% of and operates Pandora. The Commission, however, considered whether the move from joint to sole control would result in any change in Lonmin's incentives.

- [13] The Commission found that the merging parties will have a combined market share of less than 13% in each of the six abovementioned relevant markets. It furthermore found that post-transaction, the merged entity will be constrained by alternative producers such as Anglo American Platinum, Impala Platinum Limited and Sibanye Platinum.

Vertical Overlap

[14] In respect of the vertical assessment the Commission found that the ore produced at Pandora is already sold to Western Platinum (a subsidiary of Lonmin). Since the relationship between Lonmin and Pandora will continue post-merger, the Commission is of the view that the proposed transaction is unlikely to result in any foreclosure concerns.

[15] We conclude that the proposed transaction overall is unlikely to substantially prevent or lessen competition in any of the relevant markets.

Public Interest

[16] The Commission is of the view that the proposed transaction is unlikely to negatively affect employment as Lonmin already operates Pandora and therefore no job duplications will occur.¹

[17] No other public interest concerns arise from the proposed transaction.

Conclusion

[18] 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 public interest issues arise from the proposed transaction. Accordingly we approve the proposed transaction unconditionally.



Ms Andiswa Ndoni

Prof Imraan Valodia and Prof Fiona Tregenna concurring

12 June 2017

DATE

¹ Merger Record, page 88.

Tribunal Researcher: Hayley Lyle

For the merging parties: Chris Charter of Cliffe Dekker Hofmeyer for the acquiring firm and Anton Roets of Nortons Inc for the target firm

For the Commission: Portia Bele