competitiontribunal
SOUTH AFRICA

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM154Dec23

In the large merger between:

Redefine Retail Proprietary Limited	Primary Acquiring Firm
And	
Pan Africa Development Proprietary Limited and a retail property development owned by Pan Africa Phase 2 Proprietary Limited	Primary Target Firms

Panel:	A Kessery (Presiding Member)
	T Vilakazi (Tribunal Member)
	L Mncube (Tribunal Member)
Heard on:	28 February 2024
Order issued on:	28 February 2024
Reasons Issued on:	20 March 2024

REASONS FOR DECISION

Approval

[1] On 28 February 2024, the Competition Tribunal ("the Tribunal") unconditionally approved the large merger whereby Redefine Retail Proprietary Limited ("Redefine") intends to acquire 50.8% of the issued share capital of and claims against Pan Africa Development Proprietary Limited ("Pan Africa") and a retail property development owned by Pan Africa Phase 2 Proprietary Limited ("Pan Africa Phase 2"). Post-merger, Redefine will have sole control over Pan Africa and Pan Africa Phase 2.

Parties to the transaction and their activities

Primary acquiring firm

[2] The primary acquiring firm is Redefine a company incorporated under the laws of South Africa. Redefine is 100% controlled by Redefine Properties Limited ("Redefine Properties"). Redefine Properties is a Real Estate Investment Trust which is listed on the Johannesburg Stock Exchange and is not controlled by any single shareholder. Redefine and all the firms directly and indirectly controlled by it will collectively be referred to as "Redefine".

[3] Redefine is active in the property sector, with a property portfolio comprising a diverse range of properties including office, retail, residential and industrial space situated throughout South Africa.

Primary target firm

[4] The primary target firms are:

4.1. Pan Africa, a company incorporated under the laws of South Africa [redacted] by Atterbury Property Fund Proprietary Limited ("Atterbury") and Talis Property Fund (Pty) Ltd.; and

4.2. A retail property development owned by Pan Africa Phase 2. The retail space to be developed by Pan Africa Phase 2 is a wholly owned subsidiary of Atterbury.

[5] Pan Africa is active in property development in South Africa. Currently, Pan Africa's sole property is Pan Africa Shopping Centre, a community centre situated at the Corner of Watt and Third Avenue, Alexandra, Gauteng. Pan Africa Shopping Centre has a gross lettable area ("GLA") size of 15 767 m² of retail space.

[6] Pan Africa and the entities that it controls will collectively be referred to as ("Pan Africa").

Proposed transaction and rationale

Transaction

[7] [redacted] Redefine intends to acquire Atterbury's 50.887% shares in, and 100% of Atterbury's claims against, Pan Africa from Atterbury. Redefine will exercise sole control over Pan Africa and all the related developments as envisaged by section 12(2) of the Competition Act No. 89 of 1998, as amended ("the Act").

[8] In an indivisible transaction, Pan Africa Phase 2 will develop the adjacent property into retail space by approximately 3 800m^2 and sell this to Redefine. [redacted]

[redacted]

[redacted]

[redacted]

Competition assessment

[11] The Commission considered the activities of the merging parties and found that the proposed transaction gives rise to a horizontal overlap as Redefine owns retail properties, and the Pan Africa Shopping Centre and related developments are retail properties.

[12] The market for rentable retail space can be divided into four categories, namely, convenience centres, comparative centres, lifestyle centres and value centres.[1] In the current transaction, the Commission did not conclude on the exact product market. However, it assessed the impact of the proposed transaction in the retail property market considering comparative centres.

[13] The Tribunal has previously considered the relevant geographic market for comparative retail centres as a 15km radius surrounding the target centre.[2] The Commission therefore assessed the market for comparative retail centres within a 15km radius of Pan Africa Shopping Centre and the related development properties.

[14] The merged entity will have an estimated market share of 20% based on GLA, with a market share accretion of 3%. The merged entity will continue to face competition from other comparative retail centres such as Hyde Park Corner, Carlton Centre, Newtown junction, Campus square, Norwood Mall and Cresta Shopping Centre, amongst others.

[15] On this basis, we agree with the Commission's conclusion that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any affected market.

Public interest assessment

Employment

[16] The merging parties submitted that the proposed transaction will not give rise to employment concerns. The Commission engaged with the respective employee representatives and no concerns were raised.

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[1] *Atterbury Investment Limited, Attfund Retail Limited and Mantrablox Proprietary Limited* Case No: 29/LM/Jun03.

[2] *Primegrowth Retail Property (Pty) Ltd and Hyprop Investment Proprietary Limited in respect of the rental enterprise known as Atterbury Value Mart* Case No: LM209Mar21 and *Pareto Limited and Fountainhead Property Trust Scheme Pareto Limited* Case No: LM199Feb14.

[17] The employee representative of Atterbury, the current property manager confirmed that there are 4 employees who are not employed by Pan Africa and are employed by Atterbury, the current property manager of the Pan Africa Shopping Centre. These employees will be transferred to Redefine, on the exact same employment terms.

[18] We are of the view that the proposed transaction is unlikely to raise significant employment concerns.

Spread of ownership

[19] Pre-merger, Pan Africa has an ownership by historically disadvantaged persons (“HDPs”) of 11.495% and Pan Africa Phase 2 has an ownership by HDPs of 22.59%.

[20] Redefine has an ownership by HDPs of 42.40%. As the merger will result in Redefine acquiring 50.887% of Pan Africa, Pan Africa will have an ownership by HDPs of 21.57%. This is an increase of approximately 10.08% from the pre-merger position.

[21] Post merger, Pan Africa Phase 2’s ownership by HDPs will increase to 42.40% which is an increase of approximately 19.81% from the pre-merger position.

[22] Considering the above, we are satisfied that the proposed transaction is unlikely to raise any concerns from a public interest perspective.

Conclusion on public interest

[23] We are not aware of any other public interest concerns arising in this case.

Third party views

[24] No third parties, whether customers or competitors, expressed concerns about the proposed merger to the Tribunal.

Conclusion

[25] The proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market and does not raise any public interest concerns.

[26] We therefore approve the proposed transaction unconditionally.

Signed by:Anisa Kessery
Signed at:2024-03-20 11:23:59 +02:00
Reason:Witnessing Anisa Kessery

Anisa Kessery

20 March 2024

Adv. Anisa Kessery **Date**

Prof. Thando Vilakazi and Prof. Liberty Mncube concurring

Tribunal Case Manager:	Theodora Michaletos
For the Merging Parties:	Vani Chetty Competition Law (Pty) Ltd
For the Commission:	Wiri Gumbie, Ratshi Maphwanya and Makati Seekane