



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM226Feb16

In the matter between:

**LAND AND AGRICULTURAL DEVELOPMENT
BANK OF SOUTH AFRICA**

Primary Acquiring Firm

and

**PERFORMING FINANCIAL PRODUCTS OF THE
DEBTORS BOOK OF CAPITAL HARVEST (Pty) Ltd**

Primary Target Firm

Panel	: Norman Manoim (Presiding Member)
	: Medi Mokuena (Tribunal Member)
	: Anton Roskam (Tribunal Member)
Heard on	: 2 March 2016
Order Issued on	: 2 March 2016
Reasons Issued on	: 30 March 2016

Reasons for Decision

Approval

- [1] On 2 March 2016, the Competition Tribunal ("Tribunal") approved the merger between the Land and Agricultural Bank of South Africa and the Performing Financial Products of the Debtors Book of Capital Harvest (Pty) Ltd.
- [2] The reasons for approving the proposed transaction follow.

Parties to proposed transaction

Primary acquiring firm

- [3] The primary acquiring firm is Land and Agricultural Development Bank of South Africa ("the Land Bank"), an entity incorporated and governed through the Land and Agricultural Development Bank Act No. 15 of 2002 ("the Land Bank Act"). As such, it is not subject to control as envisaged in the Competition Act No. 89 of 1998 ("the Act").
- [4] The Land Bank is a specialist agricultural bank which provides financial solutions to participants in the agriculture and rural development sectors. It provides retail and wholesale finance and insurance to emerging and commercial farmers/clients.

Primary target firm

- [5] The primary target firm is the Performing Financial Products of the Debtors' Book ("the Debtors' Book"), currently owned by Capital Harvest (Pty) Ltd ("Capital Harvest"), a firm incorporated in terms of the laws of South Africa.
- [6] The Debtors' Book provides retail funds directly to agricultural clients who require such capital to fund farming and agro-processing activities. The Debtors' Book does not control any firm.

Proposed transaction and rationale

- [7] The Land Bank intends to acquire Capital Harvest's performing debtors' book which consists of the Sale Book Debts. Upon completion of the proposed transaction, the Land Bank will own the Debtors' Book.
- [8] The Land Bank submits that the proposed transaction will enable it to increase its capacity and better fulfill its developmental mandate, as set out in the Land and Agricultural Development Bank Act, No. 15 of 2002.
- [9] The primary target firm submits that it wishes to exit the business as principal and move to the agency model.

Impact on competition

- [10] During its investigation, the Commission identified a horizontal overlap in the downstream market for the provision of retail financing to the agricultural industry in South Africa. In assessing this overlap, the Commission sought to determine the extent to which the merging parties would be able to unilaterally increase prices post-merger.
- [11] The Commission found that the merged entity would have a post-merger market share accretion of approximately 1%. In addition, the Commission was of the view that the merged entity would continue to face competition from other commercial banks and agricultural cooperatives.
- [12] Furthermore, customers and competitors contacted by the Commission did not raise any concerns. Customers submitted that the proposed transaction was unlikely to have any negative impact on their business operations and that there were numerous other entities such as commercial banks, Industrial Development Cooperation (“IDC”) and International Finance Cooperation (“IFC”), which also provide funding at competitive rates.
- [13] Based on the market shares as well as the views of customers and competitors’, the Commission was of the view that the proposed transaction was unlikely to substantially prevent or lessen competition in the national market for the provision of retail financing to the agricultural industry.
- [14] The Commission also identified a potential vertical effect in the upstream market for the provision of wholesale financing to the agricultural industry.
- [15] According to the Commission, the Land Bank provides Capital Harvest with wholesale agricultural funding which the Debtors Book on lends to farmers. However, given that it is the Land Bank’s statutory mandate to ensure access to financial services by the commercial farming sector and agri-business, the Commission found that the Land Bank was unlikely to engage in input foreclosure. In addition, direct competitors of the Debtors Book were found to have alternative suppliers in the market.
- [16] The Commission was also of the view that customer foreclosure was unlikely given that Capital Harvest only received wholesale funding from the Land Bank.

[17] The Commission therefore concluded that the proposed transaction was unlikely to substantially prevent or lessen competition.

[18] We concur with the Commission's conclusion that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.


Public interest

[19] The merging parties confirmed that the proposed transaction will not result in any adverse impact on employment.

[20] The proposed transaction further raised no other public interest concerns.

Conclusion

[21] 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 other public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.



Mr Norman Manoim

30 March 2016
DATE

Ms Medi Mokuena and Mr Anton Roskam

Tribunal Researcher: Karissa Moothoo Padayachie

For the merging parties: ENSafrica

For the Commission: Maanda Lambani