



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM2010ct18

In the matter between:

**TC GROUP L.L.C**

Acquiring Firm

And

**APOLLO AVIATION HOLDINGS LIMITED**

Target Firm

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Panel : Yasmin Carrim (Presiding Member)  
: Mondo Mazwai (Tribunal Member)  
: Andiswa Ndoni (Tribunal Member)

Heard on : 13 December 2018

Order Issued on : 13 December 2018

Reasons Issued on : 13 December 2018

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### Reasons for Decision

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#### APPROVAL

- [1] On 13 December 2018, the Competition Tribunal approved a large merger between TC Group L.L.C (“TC Group”) and Apollo Aviation Holdings Limited (“Apollo”).
- [2] The reasons for the approval follow.

## **PARTIES TO THE TRANSACTION AND THEIR ACTIVITIES**

### *Primary Acquiring Firm*

- [3] TC Group is a company incorporated in accordance with the company laws of Delaware in the United States of America. It is wholly controlled by Carlyle Group I. L.P an affiliate of the Carlyle Group L.P (“Carlyle”), Carlyle is publicly traded on the NASDAQ Stock Exchange.
- [4] The Carlyle group controls a number of entities operating in several countries including Asia, Japan, South Korea, France, and South Africa.
- [5] The Carlyle group is a global alternative asset manager which manages funds that invest globally across four investment disciplines. In South Africa, the Carlyle Group has a diverse portfolio of investments and holds interests in a number of entities which provide a broad range of services.
- [6] Two entities of relevance to the proposed transaction are the Sequa Corporation (“Sequa”) and Global Jet Capital (“GJC”). Sequa is a diversified manufacturer with operations in aerospace and metal painting which provides the airline industry with a broad range of aftermarket services. Global Jet Capital is active in the aircraft financing market, with a specific focus on private and corporate jets. Sequa is operational in South Africa whereas GJC is not.

### *Primary Target Firm*

- [7] Apollo is a company incorporated in accordance with the company laws of the USA. Apollo is directly controlled by H&K investment Holdings. Apollo does not control any other firms in South Africa.
- [8] Apollo is a firm which focuses on the acquiring, leasing, managing and selling of commercial Boeing and Airbus Aircrafts. In South Africa, Apollo activities are limited to the leasing of three aircraft to Comair Limited and Mango Airlines.

## **PROPOSED TRANSACTION AND RATIONALE**

- [9] In terms of the proposed transaction, Carlyle Group intends to acquire all the shares in Apollo, once the proposed transaction is finalized, Carlyle Group will control Apollo.
- [10] In terms of rationale, the acquiring group submitted that it intends to facilitate the growth and development of the target firm. Apollo submits that it would benefit from Carlyle's further investment into its growth.

## **RELEVANT MARKETS AND IMPACT ON COMPETITION**

- [11] The Commission considered the activities of the merging parties and found that the proposed merger did not result in any product overlap because the Carlyle group does not conduct any aircraft operating or financing activities in competition with Apollo in South Africa.
- [12] Because the Carlyle group provides advanced repairs and maintenance for jet engine parts to customers such as airlines in south Africa, the Commission considered whether the merger would result in a vertical overlap between the parties. The Commission investigated whether the Carlyle group could be in a position to provide advanced repairs and maintenance for jet engine parts to Apollo post-merger.
- [13] The Commission however found that Apollo does not have any pre-merger business relationship with the Carlyle group. Further the Commission determined that the lessee and not the lessor that is responsible for the maintenance of the aircraft it leases to South African customers.
- [14] The Commission thus concluded that the proposed transaction was unlikely to substantially prevent or lessen competition in any relevant market in south Africa.

[15] We found no reason to disagree.

## **PUBLIC INTEREST**

[16] With regard to employment, the target firm does not have any employees in South Africa and the merging parties submitted that no employees would be retrenched in the acquiring firm as a result of the proposed transaction.

## **CONCLUSION**

[17] The proposed transaction does not lead to a substantial prevention or lessening of competition.

[18] The proposed transaction does not raise any public interest concerns.

[19] Accordingly, the transaction was approved without conditions.



**Ms Yasmin Carrim**

**13 December 2018**  
**Date**

**Ms Andiswa Ndoni and Ms Mondo Mazwai concurring.**

Tribunal Researcher: Alistair Dey-Van Heerden

For the merging parties: Richardt van Rensberg and Sazi Madlala of ENSafrica

For the Commission: Innocent Mhlongo, Zanele Hadebe, and Wiri Gumbie.