



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM246Nov17

In the matter between

Ivlyn No 2 (Pty) Ltd (2016/360925/07)

Primary Acquiring Firm

And

The retail letting enterprise conducted in
respect of the Valley View Retail Centre

Primary Target Firm

Panel	: Mr N Manoim (Presiding Member)
	: Mr AW Wessels (Tribunal Member)
	: Mrs M Mokuena (Tribunal Member)
Heard on	: 10 January 2018
Order Issued on	: 10 January 2018
Reasons Issued on	: 26 January 2018

REASONS FOR DECISION

Approval

- [1] On 10 January 2018, the Competition Tribunal ("Tribunal") unconditionally approved the large merger between Ivlyn No 2 (Pty) Ltd ("Ivlyn No 2") and the retail letting enterprise conducted in respect of the Valley View Retail Centre ("Target property"), hereinafter collectively referred to as the merging parties.
- [2] The reasons for the approval follow.

Parties to the transaction

Primary Acquiring Firm

- [3] Ivlyn No 2 is a company incorporated specifically for the proposed transaction and currently does not conduct any business. Ivlyn No 2 is ultimately controlled by the trustees of the Saltzman Family Trust. Ivlyn No 2 and its controllers are hereafter referred to as the 'Acquiring group'.
- [4] The Acquiring group is an investment holding entity that is indirectly active in the provision of products and services through its many subsidiaries, primarily Dis-Chem Pharmacies Limited ("Dis-Chem"). Furthermore, the Acquiring Group also directly and indirectly controls various property-owning companies that own residential, retail, warehouse and office property located in Gauteng, Eastern Cape, Western Cape, Mpumalanga and KwaZulu-Natal.
- [5] Of relevance to the proposed transaction is the Acquiring group's five properties located in Gauteng.

Primary Target Firm

- [6] The Target property is a retail letting business that is classified as a retail convenience centre located in Noordheuwel, Krugersdorp in Gauteng. Marssen 8 (Pty) Ltd ("Marssen") holds a 50% undivided share interest in the Target property and the other 50% is held by Benflat Properties (Pty) Ltd ("Benflat").

Proposed transaction and rationale

- [7] Ivlyn No 2 intends to acquire the undivided 50% issued share capital in the Target property from Marssen. Post-merger, Ivlyn No 2 and Benflat will exercise joint control over the Target property.

Relevant market and impact on competition

- [8] Both parties engage in the business of providing rentable retail space. However they do not compete in the same geographic market as the Target property is located 21kms from the nearest of the Acquiring group's retail properties. There are various convenience centres such as Key West Shopping Centre, Cradlestone Mall and Anthos Centre, located near the Target property that will continue to constrain the merging parties post-merger.
- [9] We enquired whether the merger might constrain any other pharmacy business from letting premises in the Target property in the future, given the acquiring firm's interest in Dis-Chem. The merging parties clarified that even though Dis-Chem was the only pharmaceutical products retailer in the Target property, neither Dis-Chem nor the Acquiring group would preclude the entry of any other retail pharmacy in the Target property.
- [10] The proposed transaction thus does not alter the pre-merger status *quo*.

Public interest

- [11] The merging parties submitted that proposed transaction is unlikely to have any adverse effects on employment as the merging parties do not have any employees. From the above, the Commission was of the view that the proposed transaction is unlikely to negatively affect employment and does not raise any other public interest concerns. We agreed.

Conclusion

[12] 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 adverse public interest issues arise from the proposed transaction. Accordingly, we approved the proposed transaction unconditionally.



Mr Norman Maroim

26 January 2018

Date

Mr Andreas Wessels and Mrs Medi Mokuena concurring.

Tribunal Case Manager : Ndumiso Ndlovu.

For the Merging Parties : M Rheeder of Saltzman Attorneys.

For the Commission : N Msiza and Z Hadebe.